

IN THE HIGH COURT AT CALCUTTA

WRIT APPELLATE JURISDICTION

APPELLATE SIDE

MAT/1554/2025

BABULAL JADAB @ BABULAL YADAV

VS

THE STATE OF WEST BENGAL AND ORS.

Before: The Hon'ble Justice Arijit Banerjee

&

The Hon'ble Justice Apurba Sinha Ray

For the Appellant : Mr. Partha Sarathi Bhattacharyya, Adv.
Mr. Bhaskar Seth, Adv.
Ms. Sukla Das Chandra, Adv.
Ms. Swarnali Saha, Adv.

For the State : Mr. Vimal Kumar Shah , Adv.
Ms. Susmita Chatterjee, Adv.

For Orders on : 22.01.2026

Apurba Sinha Ray, J.

1. “Jails” have been renamed as “Correctional Homes” with the high hope that inmates serving sentence therein for various offences will be brought back into the mainstream of society after undergoing necessary reforms and with this objective several corrective measures have been introduced. However, if after almost 32 years of serving a sentence, the petitioner’s prayer for premature release is refused by the Judicial

Department, the immediate impression is that the State has failed to discharge its obligation to reform the convict in the proper perspective.

2. In this case, the petitioner alongwith his brother was convicted and sentenced to suffer life imprisonment by the learned Trial Court on 27.04.1995 and the same was affirmed in the appeal in 2007. However, from the materials on record it transpires that the petitioner is in custody for almost 32 years and although his prayer for premature release was considered in the year 2022 and State Sentence Review Board had recommended for his premature release, the Judicial Department refused to approve such recommendation on the ground that as the petitioner is aged about 51 years, he has the capability to commit further offence.

3. As the prayer for premature release was not approved, the petitioner filed a writ application being no. MAT/1554 of 2025 and the same was dismissed on the ground that as the Judicial Department refused to approve the recommendation, his prayer for premature release cannot be allowed.

4. We have gone through the materials on record including the recommendation of the State Sentence Review Board, the opinion of the Court convicting the petitioner and also the observation of the Judicial Department so far as the present petitioner is concerned. The learned Court convicting the petitioner has opined for his premature release.

There is no adverse report against the petitioner from the correctional home. However, the observation of the Judicial Department is as follows:-

“1.BABULALYADAV(6-1081-2010-CT) at SI No. 1 along with his brother Kailash entered into the bedroom of one Bharat N. Doshi at Flat No. 2B, 2nd Floor, 20/A, Sarat Bose Rd, Kol-20 and committed murder of him by stabbing. Kailash was working as a servant of the victim and was removed from his work a few days ago of the incident.

The convict not only committed a premeditated murder of the victim but also organised the same and committed a breach of trust of his former employee. Being only 51 years of age his capacity to commit further crime may still be a concern for the society. His premature release may not be recommended.”

5. It is already on record that the co-convict, that is, the brother of the petitioner, who was also awarded life sentence was able to secure his premature release in or about 2012 but unfortunately, the prayer of the present petitioner who is in custody for about 32 years, for premature release, was turned down mainly on the ground that as he is only 51 years old and he has the ability to commit further offence if he is released prematurely. The concerned Officers of the Judicial Department did not consider any health report of the petitioner. At least there is no

such indication to that effect in the said observation. Needless to mention when a person is incarcerated in the Correctional Home for about 32 years, he cannot be equated with a normal person aged about 51 years who lives a free life. Therefore, the observation of the Judicial Department which was made without taking into consideration the health report of the petitioner cannot be said to be a sound one and on such ground alone it cannot say that as he is physically fit and there are chances of the petitioner committing further offence if released prematurely.

6. The logic that since the petitioner is only 51 years of age, he is in a position to commit similar or other offences, is not sound at all. The conclusion is more speculative than logical. It is quite possible that after 32 years of incarceration, the petitioner is a reformed person. We do not see any reason to consider his prayer for premature release with an adverse presumption in mind.

7. The aforesaid observation did not reflect that the co-convict Kailas Yadav has already secured his premature release. It appears to us that the present petitioner stands on the same footing with the co-convict.

8. In fine, in our opinion, the Judicial Department did not consider the prayer for premature release of the petitioner in proper perspective since no health report of the petitioner was scrutinized and, therefore, without ascertaining the physical ability, the observation of the Judicial Department that as *“being only 51 years of age his capacity to commit*

further crime may still be a concern for the society. His premature release may not be recommended,” cannot be said to be based on sound reasoning. There are materials to show that there is a serious discrimination exercised between two convicts although they are standing on the same footing.

9. In view of the above we are constrained to hold that the ground for refusing the prayer for premature release of the petitioner is not based on sound reasoning. Hence, the said observation cannot be allowed to stand any further. The learned Single Judge did not consider the above discrepancies in the observation of the Department concerned from the angle which has been reflected above.

10. Therefore, the opinion/order of the Judicial Department vide Memo July, 2024 rejecting the petitioner’s prayer for premature release is hereby quashed.

11. The Principal Secretary, Judicial Department, is requested to reconsider his decision on the prayer of premature release of the petitioner with compassion and also in the light of the observation of this order within 3 (three) weeks from the date of communication of this order to him. The order passed by the Learned Single Judge in connection with WPA No. 19984 of 2024 is set aside. The appeal is accordingly allowed.

12. The Learned Registrar General, Calcutta High Court is requested to communicate this order to the Principal Secretary, Judicial Department, Government of West Bengal immediately.

13. A copy of this order be also conveyed to the petitioner Babulal Yadav for his information.

14. Urgent photostat certified copies of this Order, if applied for, be supplied to the parties on compliance of all necessary formalities.

I agree.

(APURBA SINHA RAY, J.)

(ARIJIT BANERJEE, J.)