



2026:CGHC:29288-DB



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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 117 of 2026

1 - Yogesh Khare S/o Ganguram Khare Aged About 39 Years R/o- Village-Dhour, Police Station- Nandini Nagar, District- Durg (C.G.), Presently Lodged In Durg Central Jail, Durg (C.G.) Since In Jail Through His Brother Tiger Singh Khare, S/o Babulal, Presently Aged About 40 Years, R/o- Village-Dhour, Post- Nardha, Ps- Nandini Nagar, District- Durg (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through- Additional Secretary, Home (Jail) Department, Government Of Chhattisgarh, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur, District Raipur (C.G.)

2 - Director General (Prisons And Rehabilitation Services) Jail Department, Jail Headquarters, Sector- 19, Nava Raipur, Atal Nagar, Raipur (C.G.)

3 - Jail Superintendent Durg Central Jail, District- Durg (C.G.)

4 - Collector Durg, District- Durg (C.G.)

5 - Superintendent Of Police Durg, District- Durg (C.G.)

... **Respondent(s)**

For Petitioner(s) : Ms. Aditi Singhvi, Advocate.

For Respondent(s) : Mr. Soumya Rai, Dy. Govt. Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

13/07/2026

1. Heard Ms. Aditi Singhvi, learned counsel for the petitioner. Also heard Mr. Soumya Rai, learned Dy. Govt. Advocate, appearing for the



Respondent/State.

2. The present petition has been filed by the petitioner with the following prayer:

“10.1 The Hon'ble Court may kindly be pleased to quash the order dated 05.1.2026 (Annexure P/1) passed by the respondent authorities and direct the Respondent State to prematurely release the petitioner, in accordance with law, in the interest of justice.

10.2 This Hon'ble Court may kindly be pleased to grant any other relief as it may deem fit in the interest of justice.”

3. Learned counsel for the petitioner submitted that the petitioner was tried for the offence punishable under Section 302 of the Indian Penal Code and vide judgment dated 02.08.2011 passed in Sessions Case No. 151/2009 by the learned Sessions Judge, Durg, District Durg (C.G.), the petitioner was convicted and sentenced to imprisonment for life. The petitioner preferred Criminal Appeal No. 813/2011 before this Court, which came to be dismissed vide judgment dated 25.05.2017. Thereafter, the petitioner preferred Special Leave Petition (Criminal) No. 2766/2021 before the Hon'ble Supreme Court, which was also dismissed vide order dated 22.03.2021. He further submitted that the petitioner is presently serving his sentence at Central Jail, Durg and has completed more than 16 years and 08 days of actual imprisonment and 21 years, 04 months and 15 days of imprisonment including remission as on 23.01.2026. After the petitioner became eligible for consideration of premature release under the provisions of the Chhattisgarh Prison Rules, 1968, an opinion was sought from the Presiding Judge, who vide order dated 11.06.2024, passed on the earlier application, expressed no objection if the



petitioner was granted remission of sentence. Thereafter, the petitioner submitted an application for premature release before the Jail Superintendent in June, 2025. The said application, along with the nominal roll, Form 'A' and other relevant documents, was forwarded by the Jail Superintendent to the District Magistrate, Durg vide letter dated 20.06.2025 seeking his opinion under Rule 358 of the Chhattisgarh Prison Rules, 1968, and the relevant papers were also forwarded to respondent No. 02 vide letter dated 21.09.2025. He contended that the petitioner has been released on parole on 11 occasions, each time surrendering within the stipulated period, and his conduct both inside the jail and during parole has remained satisfactory. It was further submitted that the Jail Superintendent has recommended the petitioner's premature release and has also reported that the petitioner is suffering from Hepatitis-B. However, the respondent-State, by the impugned order dated 05.01.2026, rejected the petitioner's application solely on the ground that he had committed a serious offence and that adverse opinions had been furnished by the District Magistrate and the Superintendent of Police, Durg, without assigning any independent reasons or considering the mandatory factors prescribed under Rule 358 of the Chhattisgarh Prison Rules, 1968.

4. Learned counsel for the petitioner further submitted that under Rule 358 of the Chhattisgarh Prison Rules, 1968, the State Sentence Review Board is required to consider all the relevant factors prescribed therein, including the opinion of the Presiding Court, the report of the Collector and the Superintendent of Police, and the jail record relating to the conduct and behaviour of the prisoner before making its recommendation. It is submitted that the petitioner had received a favourable opinion from the Presiding



Judge, the Jail Superintendent had also recommended his premature release, and the petitioner had maintained satisfactory conduct in jail besides having been released on parole on 11 occasions without any adverse report. However, the impugned order does not reflect any consideration of these mandatory factors and merely proceeds on the ground that the petitioner had committed a serious offence and that the District Magistrate and the Superintendent of Police had expressed adverse opinions. Learned counsel further submitted that the reports of the District Magistrate and the Superintendent of Police are themselves cryptic and unsupported by any reasons, though under Rule 358 they are required to furnish their opinion on the prescribed parameters. It is argued that the respondent-State has also failed to comply with Clause (vii) of Rule 358(7), which mandates that where the recommendation is rejected, the State Government must assign reasonable and logical reasons. According to the learned counsel, the impugned order is a non-speaking order, suffers from complete non-application of mind, and ignores the relevant considerations, including the petitioner's satisfactory jail conduct, medical condition, successful parole history, and the likelihood of his rehabilitation. Placing reliance upon the decision of the Hon'ble Supreme Court in *Laxman Naskar v. State of West Bengal*, (2000) 7 SCC 626, it is contended that the gravity of the offence alone cannot be the sole ground to reject premature release once the statutory requirements are satisfied. It is, therefore, prayed that the impugned order dated 05.01.2026 be quashed and the respondent-State be directed to reconsider the petitioner's case for premature release in accordance with law.

5. Per contra, learned State counsel submitted that the petitioner stands convicted for the offence punishable under Section 302 of the Indian Penal



Code and is undergoing life imprisonment for committing a heinous offence of murder. He submitted that although the petitioner's case was placed before the competent authorities for consideration of premature release under Rule 358 of the Chhattisgarh Prison Rules, 1968, the District Magistrate, Durg and the Superintendent of Police, Durg furnished adverse opinions and did not recommend his release, taking into consideration the nature and gravity of the offence and its likely impact on society. It was further submitted that the State Government, after considering the recommendations of the State Sentence Review Board, the reports of the District Magistrate and Superintendent of Police, and all other relevant materials placed on record, passed the impugned order dated 05.01.2026 in accordance with law. Learned State counsel contended that premature release or remission is not a matter of right, and mere completion of the qualifying period of sentence does not confer an indefeasible right upon a convict to seek premature release. He further submitted that the opinion of the Collector and Superintendent of Police, though recommendatory in nature, constitutes a relevant consideration under Rule 358 and has rightly been taken into account by the State Government while arriving at its decision. It was also argued that the impugned order does not suffer from any illegality, arbitrariness, or procedural infirmity warranting interference under Article 226 of the Constitution of India. Accordingly, it was prayed that the writ petition, being devoid of merit, deserves to be dismissed.

6. We have heard learned counsel for the parties and have carefully perused the pleadings, annexures and the material available on record.

7. At this juncture, it is apposite to refer to Rule 358 of the Chhattisgarh Prison Rules, 1968, particularly sub-rule (7), which governs the consideration



of cases relating to premature release of life convicts. The Rule requires the State Sentence Review Board to examine various relevant factors, including the opinion of the Presiding Court, the report of the Collector and the Superintendent of Police, the conduct and behaviour of the prisoner in jail, the probability of his reverting to criminal habits, and the likelihood of his rehabilitation and peaceful reintegration into society. The said provision embodies the reformatory theory of punishment and mandates that every eligible prisoner be considered on the basis of an objective assessment of all relevant factors. In the present case, the petitioner satisfies the eligibility criteria inasmuch as he has completed more than 21 years and 04 months of imprisonment including remission (more than 16 years of actual imprisonment), has maintained satisfactory conduct throughout his incarceration, has been released on parole on 11 occasions without any adverse report, and has also received a favourable opinion from the Presiding Judge as well as the Jail Superintendent recommending his premature release. In such circumstances, the adverse opinion of the District Magistrate and the Superintendent of Police, unsupported by any cogent reasons and merely founded on the gravity of the offence, cannot by itself override the statutory scheme and the reformatory object underlying Rule 358 of the Chhattisgarh Prison Rules, 1968.

8. It is well settled that though remission under Section 432 of the Code of Criminal Procedure is discretionary, such discretion must be exercised in a fair, reasonable and non-arbitrary manner. The Hon'ble Supreme Court in ***Laxman Naskar v. State of West Bengal***, reported in **(2000) 7 SCC 626**, has laid down that while considering premature release, authorities must evaluate factors such as whether the offence affects society at large, the



likelihood of recurrence, and the potential for the convict's reformation, Similarly, in ***Epuru Sudhakar v. Government of Andhra Pradesh***, reported in **(2006) 8 SCC 161** it has been held that orders relating to remission are subject to judicial review if they are arbitrary, mala fide, or based on irrelevant considerations. Further, in ***State of Haryana v. Jagdish***, reported in **(2010) 4 SCC 216**, the Hon'ble Supreme Court has emphasized that the benefit of remission policy must be extended in a fair and consistent manner.

9. The philosophy underlying premature release is reformatory rather than retributive. Long Incarceration coupled with demonstrated good conduct and positive reports from competent authorities entitles prisoner to objective and fair consideration under the applicable Rules. Once the statutory bar is found inapplicable, and the relevant authorities have not expressed any adverse opinion, denial of premature release on a misconceived interpretation of the Rule amounts to arbitrariness and offends the mandate of Article 14 of the Constitution of India.

10. Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that the rejection of the Petitioner's claim is based on mere conjectures and not on any cogent material. The positive opinion of the sentencing Court and recommendation of the jail authorities have not been assigned due weightage. The impugned order, therefore, cannot be sustained in the eyes of law.

11. Considering his long period of incarceration, satisfactory conduct, favorable opinions of the competent authorities and absence of any statutory embargo, this Court holds that the petitioner is entitled to the benefit of premature release. The action of the respondent authorities in denying such benefit on an erroneous interpretation of the Rule is arbitrary and violative of



Article 14 of the Constitution of India, as explained in ***E.P. Royappa v. State of Tamil Nadu***, reported in **(1974) 4 SCC 3**.

12. In view of the foregoing discussion, the writ petition is **allowed**. The impugned order dated 05.01.2026 (Annexure P/01) is hereby quashed and set aside. The respondents are directed to grant the benefit of premature release/remission to the petitioner and release him forthwith, if not required in any other case, in accordance with law and subject to the usual terms and conditions under the Chhattisgarh Prison Rules, 1968. No order as to costs.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Alok