



2026:CGHC:27173-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 121 of 2026

Girdhari Sahu S/o Babli Sahu Aged About 53 Years R/o- Village-Gadhabhata, Police Station- Kawardha, District- Kabirdham (C.G.), Presently Lodged In Durg Central Jail, Durg (C.G.) Since In Jail Through His Friend Vikas Jain, S/o Santosh Jain, Presently Aged About 39 Years, R/o- 212, Zonal Market, Sector 10, Bhilai, District Durg (C.G.)

... **Petitioner**

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 Kabirdham, District Kabirdham (C.G.)

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

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Ms. Aditi Singhvi, Advocate
For Respondents/State	:	Mr. Priyank Rathi, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

02.07.2026

1. Heard Ms. Aditi Singhvi, learned counsel for the petitioner as well as Mr. Priyank Rathi, learned Government Advocate, appearing for the State/respondents.



2. The present petition has been filed by the petitioner under Article 226 of the Constitution of India, with the following relief(s):-

“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 The Hon'ble Court may kindly be pleased to quash the memo dated 23.04.2024 (Annexure P/2) issued by the Learned Presiding Judge as being not in accordance with law.

10.3 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 submits that the petitioner stands convicted for offences under Sections 302 (two counts), 364 and 201 of the Indian Penal Code and was sentenced to imprisonment for life vide judgment dated 11.10.2010 passed by the learned Sessions Judge, Kabirdham, District Kabirdham (C.G.) in Sessions Case No.36/2009. The said judgment of conviction was affirmed by this Court in CRA No.877/2010 vide judgment dated 02.05.2016 and the Special Leave Petition preferred by the petitioner also came to be dismissed by the Hon'ble Supreme Court on 20.11.2017. It is further submitted that the petitioner is presently lodged in Central Jail, Durg and, having completed the requisite period of sentence including remission, became eligible for consideration of his case for premature release under Rule 358 of the Chhattisgarh Prison Rules, 1968.



4. Learned counsel further submits that after the petitioner became eligible for consideration for premature release, opinion was sought from the learned Presiding Judge, who vide memo dated 23.04.2024 opined against grant of remission mainly having regard to the manner in which the offence was committed. Thereafter, the petitioner submitted an application seeking premature release before the Jail Superintendent on 20.05.2025 and the same was forwarded by the Jail Superintendent along with the nominal roll, Form "A" and other relevant documents to the District Magistrate, Kabirdham for opinion in terms of Rule 358 of the Chhattisgarh Prison Rules, 1968. Learned counsel for the petitioner would submit that the Jail Superintendent specifically opined in favour of release of the petitioner and it was also noted that the petitioner had been released on parole on eighteen occasions; that on every such occasion he surrendered within time; and that his conduct in jail as well as during parole remained satisfactory. However, the respondent authorities, by the impugned order dated 05.01.2026, rejected the petitioner's application for premature release on the ground of the gravity and manner of commission of offence and on the basis of adverse opinion said to have been furnished by the District Magistrate and Superintendent of Police.

5. Learned counsel for the petitioner would further submit that the impugned order is arbitrary, non-speaking and contrary to Rule 358 of the Chhattisgarh Prison Rules, 1968. It is contended that under the amended Rule 358, the State Sentence Review Board is required to consider all relevant factors including the opinion of the Court, report of



the Collector, jail report regarding conduct and behaviour of the prisoner and other relevant circumstances bearing upon the question of premature release. It is submitted that the petitioner's satisfactory jail conduct, repeated parole releases without any misuse of liberty, timely surrender on each occasion and the favourable opinion of the Jail Superintendent were relevant considerations which have not been adverted to by the authorities while rejecting his application. It is also contended that the opinion of the learned Presiding Judge dated 23.04.2024 is itself not in consonance with the law laid down by the Hon'ble Supreme Court in ***Laxman Naskar v. State of West Bengal, (2007) 7 SCC 626*** and ***Ram Chander v. State of Chhattisgarh, (2022) 4 SCR 1103***, inasmuch as the factors required to be considered therein have not been objectively examined and the opinion is founded only on the gravity of the offence and the manner of its commission.

6. Per contra, learned State counsel opposes the petition and would submit that the petitioner is a life convict lodged in Central Jail, Durg in pursuance of the judgment of conviction and sentence passed in Sessions Case No.36/2009 and his application for premature release has been considered strictly in accordance with Rule 358 of the Chhattisgarh Prison Rules, 1968. It is submitted that after receipt of the petitioner's application, the jail authorities forwarded the same for consideration and, in terms of Rule 358(7), opinion was called from the concerned District Magistrate, who in turn obtained opinion from the Superintendent of Police.



7. It is submitted that the District Magistrate, upon considering the opinion of the Superintendent of Police and the nature of offence, recommended against premature release of the petitioner. The State further submits that the petitioner had committed double murder of his own wife and minor nephew in a planned manner and, after committing the murders, had attempted to destroy evidence by burning the dead bodies in the jungle. Having regard to the heinous and gruesome nature of the offence, the learned Sessions Judge had also opined that remission of sentence would not be proper.

8. Learned State counsel would further submit that the State Sentence Review Board, after taking into consideration the recommendation of the District Magistrate, the opinion of the Superintendent of Police and the gravity and manner of commission of the offence, found the petitioner not fit for premature release and accordingly recommended rejection of his case. It is submitted that the State Government, on due consideration of the recommendation of the State Sentence Review Board and the material available on record, rejected the petitioner's application vide order dated 05.01.2026. According to the State, premature release is not a matter of right and merely because the petitioner has completed the qualifying period of sentence, no indefeasible right accrues in his favour for grant of remission or premature release. It is contended that the power of remission is discretionary in nature and the competent authority, having considered the gravity of the offence and the adverse reports of the concerned authorities, has rightly rejected the petitioner's claim.



9. We have heard learned counsel for the parties and perused the material available on record with utmost circumspection.

10. The controversy in the present petition centers around the legality and sustainability of the impugned order dated 05.01.2026 passed by the respondent authorities rejecting the petitioner's claim for premature release under Rule 358 of the Chhattisgarh Prison Rules, 1968.

11. The petitioner stands convicted for offences under Sections 302 (two counts), 364 and 201 of the Indian Penal Code and is undergoing sentence of life imprisonment pursuant to the judgment rendered in Sessions Case No.36/2009. The record reveals that after the petitioner became eligible for consideration of premature release, his case was processed under Rule 358 of the Chhattisgarh Prison Rules, 1968. The Jail Superintendent forwarded the petitioner's case along with the nominal roll, Form "A" and other relevant documents; opinion of the learned Presiding Judge was sought; and the matter was thereafter placed before the competent authorities for consideration. The impugned order, however, came to be passed rejecting the petitioner's prayer for premature release mainly on the basis of the gravity and manner of commission of the offence and the adverse opinions furnished by the learned Presiding Judge, the District Magistrate and the Superintendent of Police.

12. It is no doubt true that premature release cannot be claimed as an absolute matter of right and the State Government, while exercising its powers under the Rules, is entitled to consider the nature of the offence,



the conduct of the prisoner, the opinion of the competent authorities and other relevant circumstances. At the same time, the power so exercised has to be in conformity with the statutory framework governing premature release and must reflect objective consideration of all relevant factors contemplated under Rule 358 of the Chhattisgarh Prison Rules, 1968. The order of rejection must therefore disclose due application of mind to the entirety of the material placed on record and cannot rest merely upon the gravity of the offence or upon the opinions of the authorities, without an independent and holistic evaluation by the State Government.

13. In the present case, the material on record clearly indicates that the petitioner has undergone more than 20 years of sentence including remission and has completed the requisite period for consideration of premature release under the applicable Rules. The record further shows that the petitioner has been released on parole on as many as eighteen occasions and there is no allegation that he ever misused the liberty so granted to him. It is also not in dispute that the petitioner surrendered within time on each occasion and that his conduct in jail as well as during parole has been reported to be satisfactory. The Jail Superintendent, while forwarding the petitioner's case, has also adverted to his satisfactory conduct and parole history. These facts are relevant for adjudging the petitioner's claim for premature release.

14. The law on the subject is well settled that while considering a case for premature release, the competent authority is required to examine



not merely the nature of the crime, but also the conduct of the prisoner in jail, the likelihood of his reverting to criminal activities, the possibility of his rehabilitation, and whether any fruitful purpose would be served by his continued incarceration. The parameters laid down by the Hon'ble Supreme Court in ***Laxman Naskar*** (supra) and reiterated in subsequent decisions are required to guide the decision-making process. Likewise, in ***State of Haryana v. Jagdish, (2010) 4 SCC 216***, the Hon'ble Supreme Court has emphasized that a prisoner has a right to be considered for premature release in accordance with the applicable policy and that such consideration must be fair, objective and in terms of the prevailing Rules. The object underlying premature release is reformatory and not merely retributive.

15. A perusal of the impugned order dated 05.01.2026 would show that the rejection of the petitioner's case is founded principally on the gravity and manner of commission of the offence and on the adverse recommendations furnished by the learned Presiding Judge, the District Magistrate and the Superintendent of Police. However, the impugned order does not disclose any meaningful consideration of the petitioner's long incarceration, his satisfactory conduct in jail, the fact that he had been released on parole on eighteen occasions without any allegation of misuse of liberty, and the absence of any adverse material indicating likelihood of recidivism or danger to society upon release.

16. The order, thus, does not reflect a holistic or balanced consideration of the relevant factors which the Rules and the law laid



down by the Hon'ble Supreme Court require the competent authority to examine while deciding a claim for premature release.

17. It is trite that the opinion furnished by the learned Presiding Judge, the District Magistrate and the Superintendent of Police is undoubtedly a relevant input in the process of consideration; however, such opinions are not conclusive in themselves and cannot supplant the independent satisfaction which the State Government is required to arrive at under Rule 358 of the Chhattisgarh Prison Rules, 1968. The State Government is obliged to consider the entire material on record, including the conduct of the prisoner, his reformatory progress, parole history and the overall penological purpose of continued incarceration. A mere reiteration of the seriousness of the offence, howsoever grave it may be, cannot by itself justify rejection of premature release once the statutory eligibility has accrued and the prisoner's subsequent conduct demonstrates reformation and responsible behaviour.

18. This Court is of the considered view that although the offence for which the petitioner stands convicted is undoubtedly grave and heinous, the gravity of the offence cannot be the sole determinative factor to deny the benefit of premature release in perpetuity, particularly when the Rules themselves contemplate consideration of such release after completion of the requisite period and the material on record shows long incarceration, satisfactory conduct and repeated release on parole without breach of conditions. To hold otherwise would amount to rendering the scheme of premature release otiose in every serious



offence and would defeat the reformatory object which underlies the policy of remission and premature release. In the present case, the petitioner has already undergone the qualifying period of incarceration; has been released on parole on eighteen occasions without misuse of liberty; has surrendered punctually on every occasion; and has maintained satisfactory conduct in jail. There is no material on record, apart from the general reference to the gravity of the offence, to indicate that the petitioner presently poses such a threat to society or carries such propensity of recidivism as would justify denial of premature release notwithstanding his long incarceration and satisfactory conduct. The impugned order does not reveal any independent analysis on these aspects and, therefore, cannot be sustained in law.

19. In view of the foregoing discussion, the impugned order dated 05.01.2026 passed by the respondent authorities is liable to be quashed and set aside. This Court is further of the view that once the petitioner has completed the requisite period of sentence for consideration under the Rules and the material placed on record establishes satisfactory conduct, repeated parole releases without breach and absence of any disqualifying circumstance under the Rules, relegating the petitioner once again to another round of consideration would serve no useful purpose. The ends of justice would, therefore, be met by granting the petitioner the benefit of premature release.

20. Accordingly, the impugned order dated 05.01.2026 passed by the respondent authorities is hereby quashed and set aside.



21. Having regard to the fact that the petitioner has undergone the requisite period of imprisonment for consideration of premature release under the applicable Rules, has maintained satisfactory conduct in jail, has not misused the liberty granted to him during parole on eighteen occasions, and there being no disqualifying circumstance shown to exist under the Rules warranting continued incarceration, this Court is satisfied that the petitioner is entitled to the benefit of premature release.

22. The respondent authorities are, accordingly, directed to grant premature release to the petitioner and release him forthwith from custody, if not required in any other case, subject to compliance with the usual terms and conditions as may be imposed in accordance with the Chhattisgarh Prison Rules, 1968.

23. The writ petition stands **allowed**. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice