



2026:CGHC:17350-DB

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 202 of 2026**

Dheluram S/o Motiram Aged About 68 Years Convicted Prisoner No. 2442/138, Presently Lodged In Central Jail, Raipur, Distt. Raipur, Chhattisgarh, Through His Son Topsingh Anant S/o Dheluram, Aged About 35 Years, R/o Village Koilari, P.S. Lalpur, Distt. Mungeli, Chhattisgarh.

**... Petitioner(s)****versus**

**1** - State Of Chhattisgarh Through Its Secretary, Department Of Home (Jail), Mahanadi Bhawan, Mantralaya, Naya Raipur, Distt. Raipur, Chhattisgarh.

**2** - The Jail And Correctional Services Chhattisgarh Through The Director General Prisons, Sector 19, Nava Raipur, Distt. Raipur, Chhattisgarh.

**3** - The District Magistrate Mungeli, Distt. Mungeli, Chhattisgarh.

**4** - The District Magistrate Raipur, Chhattisgarh.

**5** - The Jail Superintendent Central Jail, Bilaspur, Distt. Bilaspur, Chhattisgarh.

**6** - The Jail Superintnedent Central Jail, Raipur, Distt. Raipur, Chhattisgarh.

**7** - The Superintendent Of Police Mungeli, Distt. Mungeli, Chhattisgarh.

**... Respondent(s)**



For Petitioner(s) : Mr. Shalvik Tiwari, Advocate

For Respondent(s) : Mr. Soumya Rai, Dy. G.A.

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Judgment on Board**

**Per Ramesh Sinha, Chief Justice**

**16.04.2026**

1. Heard Mr. Shalvik Tiwari, learned counsel for the petitioner. Also heard Mr. Soumya Rai, learned Deputy Advocate General, appearing for the State/respondents.
2. The present writ petition has been filed by the petitioner with the following prayers:

*“10.1) Issue a writ in the nature of Certiorari, quashing the order of the District Magistrate, Mungeli (contained in letter dated 17.03.2026, ANNEXURE P/4) rejecting the petitioner's medical parole application, as being arbitrary, illegal, and violative of Article 21 of the Constitution of India.*

*10.2) Issue a writ in the nature of Mandamus, directing the respondent authorities. immediately release the petitioner on medical parole for a period of 90 days (or until his medical condition stabilizes, whichever is longer) to enable him to receive proper treatment at a private hospital of his choice at his own expense, subject to reasonable conditions such as furnishing sureties, periodic reporting to the local police station, and restriction of movement to the place of treatment and residence.*



*10.3) IN THE ALTERNATIVE, if this Hon'ble Court is not inclined to grant parole as prayed above, issue a writ in the of Mandamus directing the nature respondent authorities to permit the petitioner to be treated at a private hospital of his choice at his own expense, under the supervision of jail authorities (such as by deputing jail staff for security), without releasing him on parole, so that he may receive necessary medical care while remaining in the constructive custody of the State.*

*10.4) Direct the respondent authorities to provide immediate medical attention to the petitioner within the jail premises pending the hearing of this petition, including proper wound care, hygiene management for incontinence, and treatment for bedsores.*

*10.5) Pass any other order or direction that this Hon'ble Court may deem fit and proper in the interest of justice.”*

3. Learned counsel for the petitioner submits that the petitioner stands convicted vide judgment dated 05.08.2002 passed by the learned Second Additional Sessions Judge (FTC), Mungeli in Sessions Case No. 435/1995 under Sections 148, 323/149 (three counts) and 304 Part-I of the Indian Penal Code, 1860 and was sentenced to undergo rigorous imprisonment for a period of 7 years, which conviction and sentence came to be partly modified by this Court in Criminal Appeal No. 828/2002 vide judgment dated 20.09.2024 whereby the conviction under Section 304 Part-I IPC was altered to Section 304 Part-II IPC and the sentence was reduced to 4 years of rigorous imprisonment, and the Special Leave Petition (Crl.) No. 17525/2024



preferred before the Hon'ble Supreme Court also came to be dismissed on 13.12.2024. The petitioner is in custody and has already undergone a substantial portion of the sentence i.e. about 2 years and 9 months out of the total 4 years and is presently lodged in Central Jail, Raipur; that the petitioner is a senior citizen aged about 68 years and during incarceration his health has severely deteriorated, inasmuch as he developed gangrene leading to amputation of his toe and thereafter amputation of his leg above the knee on 02.03.2026 at Dr. B.R. Ambedkar Memorial Hospital, Raipur, and continues to suffer from severe post-operative complications. Further, upon seeking medical parole, this Court in WPCR No. 133/2026 vide order dated 03.03.2026 directed the competent authority to consider and decide the petitioner's application by a reasoned order, however, despite the said direction, the District Magistrate, Mungeli has rejected the petitioner's application vide impugned communication dated 17.03.2026 on hyper-technical and untenable grounds, namely absence of specific provision for medical parole under the Chhattisgarh Prisoners Leave Act, 1985 and non-completion of the stipulated period of three months from the previous leave, without appreciating the exceptional and emergent medical condition of the petitioner. The petitioner's condition has further worsened thereafter, and despite being referred for specialized treatment at AIIMS, Raipur upon discharge on 03.04.2026, he could not be admitted due to non-availability of beds either at AIIMS or at DKS Hospital, Raipur, and was compelled to return to jail in a critical condition without adequate medical care. The petitioner has also been



diagnosed with a subacute infarct in the left cerebellar region as per NCCT Head report dated 01.04.2026, further aggravating his already precarious condition and that despite such grave and life-threatening circumstances, the respondent authorities have failed to exercise their discretionary powers in a humane and reasonable manner, and have rejected the petitioner's claim without due application of mind to his medical exigency, thereby rendering the impugned action ex facie arbitrary, non-speaking and violative of Article 21 of the Constitution of India.

**4.** Learned counsel for the petitioner further submits that under the statutory framework, particularly Rule 358 and Section 432 Cr.P.C. (now Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the State is obligated to record a reasoned and logical satisfaction while accepting or rejecting recommendations of the Sentence Review Board, which requirement has been completely disregarded in the present case. The impugned order thus suffers from arbitrariness, non-application of mind and consideration of irrelevant factors while ignoring relevant material, thereby warranting interference by this Court.

**5.** Per contra, learned State counsel submits that the petitioner stands convicted for offences under Sections 148, 323/149 and 304 Part-II of the Indian Penal Code and is undergoing sentence pursuant to a judgment of conviction which has attained finality up to the Hon'ble Supreme Court. Further, considering the nature of the offence and the statutory framework governing grant of leave, the petitioner is not entitled to parole. The Chhattisgarh Prisoners Leave Act, 1985 does not



specifically provide for grant of parole on medical grounds and further, as per Rule 31-Ka(3), the petitioner is not eligible as the mandatory period of three months from the date of return from previous leave has not elapsed. Further, the competent authority has duly considered the relevant provisions and passed the impugned order dated 17.03.2026 and the same does not suffer from any illegality or arbitrariness. The grant of parole is not a matter of right and is subject to statutory compliance and therefore, the present 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. It is not in dispute that the petitioner stands convicted and is presently undergoing sentence of 4 years of rigorous imprisonment as modified by this Court, out of which he has already undergone about 2 years and 9 months of incarceration. Further, the petitioner is a senior citizen aged about 68 years and the material placed on record clearly reveals that during incarceration his health has deteriorated drastically, inasmuch as he developed gangrene resulting in amputation of his toe and thereafter amputation of his leg above the knee on 02.03.2026 at Dr. B.R. Ambedkar Memorial Hospital, Raipur. The medical record further indicates that the petitioner continues to suffer from severe post-operative complications including nerve damage, loss of excretory control, bedsores and neurological impairment as reflected from NCCT Head report dated 01.04.2026 showing subacute infarct in the left cerebellar region.



**8.** It is further not in dispute that this Court, in earlier round of litigation i.e. WPCR No. 133/2026, vide order dated 03.03.2026 directed the competent authority to consider the petitioner's application for medical parole and pass a reasoned and speaking order. Pursuant thereto, the District Magistrate, Mungeli has rejected the petitioner's claim vide impugned order dated 17.03.2026 primarily on the grounds that there is no specific provision for medical parole under the Chhattisgarh Prisoners Leave Act, 1985 and that the petitioner has not completed the mandatory period of three months from the date of return from previous leave and further citing lack of communication from the concerned jail authority.

**9.** The rejection of the petitioner's claim, in the considered opinion of this Court, is founded on hyper-technical grounds and fails to take into account the exceptional and emergent medical condition of the petitioner. The impugned order does not reflect due application of mind to the material on record, particularly the serious and life-threatening condition of the petitioner, and is thus liable to be termed as non-speaking and arbitrary. Further, the authorities have failed to appreciate that procedural requirements cannot override the fundamental rights of a prisoner, especially in cases of grave medical exigency.

**10.** At this juncture, it is apposite to note that the right to life under Article 21 of the Constitution of India includes the right to health and access to adequate and timely medical treatment/ That, a prisoner, though deprived of personal liberty, is not denuded of his fundamental rights and the State is under a constitutional obligation to ensure proper



medical care. When the medical infrastructure within the prison system is demonstrably inadequate to deal with the serious condition of the petitioner, denial of temporary release on medical grounds amounts to violation of Article 21.

11. It is well settled that though remission under Section 432 of the Code of Criminal Procedure / Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 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 (2000) 7 SCC 626*** has held that while considering premature release, relevant factors such as impact on society, likelihood of recurrence and potential for reformation must be assessed. Similarly, in ***Epuru Sudhakar v. Government of Andhra Pradesh (2006) 8 SCC 161***, it has been held that orders of remission are subject to judicial review if found to be arbitrary or based on irrelevant considerations. Further, in ***State of Haryana v. Jagdish (2010) 4 SCC 216***, it has been emphasized that remission policy must be applied fairly and consistently.

12. In the present case, the material on record clearly demonstrates that the petitioner, after being discharged from Dr. B.R. Ambedkar Memorial Hospital, Raipur on 03.04.2026, was advised to seek specialized treatment at AIIMS, Raipur, however, he could not be admitted due to non-availability of beds and similarly, he was denied admission at DKS Hospital, Raipur for the same reason. Despite of such precarious condition, he was compelled to return to Central Jail, Raipur without receiving adequate follow-up treatment and that his



condition has continued to deteriorate thereafter, thereby giving rise to a continuing and fresh cause of action.

**13.** 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 application is not sustainable in law, inasmuch as it is based on rigid and irrelevant considerations while completely ignoring the grave medical condition and humanitarian aspects involved. The impugned order, therefore, suffers from arbitrariness and violates the petitioner's fundamental rights under Article 21 of the Constitution of India.

**14.** In view of the foregoing discussions, the petition is **allowed**. The impugned order dated 17.03.2026 is hereby quashed and set aside. The respondents are directed to grant the benefit of remission to the petitioner and release him forthwith, if not required in any other case, subject to compliance with usual terms and conditions as may be imposed under the Chhattisgarh Prison Rules, 1968. No order as to costs.

**Sd/-  
(Ravindra Kumar Agrawal)  
Judge**

**Sd/-  
(Ramesh Sinha)  
Chief Justice**