



CGHC010244422026

2026:CGHC:27633-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 361 of 2026

Nityanand S/o Shri Gajanand Sahu Aged About 40 Years (About 24 Years At The Time Of Entry Into Jail), R/o High School Para Lailunga, P.S. Lailunga, Distt. Raigarh, C.G., Present Address- Village Bade Hardi, P.S. Pusour, Distt. Raigarh, Chhattisgarh.

... **Petitioner**

versus

1 - State Of Chhattisgarh Through The Secretary, Home (Jail) Department, Mantralaya, Mahanadi Bhawan, Raipur, Chhattisgarh.

2 - The Under Secretary State Of Chhattisgarh, Jail Department, Mantralaya, Mahanadi Bhawan, Raipur, Chhattisgarh.

3 - The Director General Prisons And Correctional Services Chhattisgarh, Head Quarter Prisons And Correctional Services Chhattisgarh, Raipur, Chhattisgarh.

4 - The Jail Superintendent, Central Jail, Bilaspur, Chhattisgarh.

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Rishi Rahul Soni, 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

06.07.2026

1. Heard Mr. Rishi Rahul Soni, learned counsel for the petitioner as well as Mr. Priyank Rathi, learned Government Advocate, appearing on behalf of the State/respondents.



2. The present petition has been filed by the petitioner with the following relief(s):-

“10.1 The Hon'ble Court may kindly be pleased to call for entire records pertaining to the case of the petitioner for it's kind perusal;

10.2 The Hon,ble Court may kindly be pleased to issue a suitable writ, order or direction and quash/set-aside the order dated 07.05.2026 (Annexure P/1) issued/passed by the respondent no.2;

10.3 The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction commanding the respondent authorities to grant the petitioner remission under 473 of Bharatiya Nagrik Suraksha Sanhita 2023/432 of the Code of Criminal Procedure 1973 and under Rule 358 of C.G. Prisons Rule 1968 and to release the petitioner by granting remission of rest part of the sentence imposed upon the petitioner vide judgment of conviction and sentence dated 07.05.2013 passed by the Learned 2nd Additional Session Judge Raigarh (C.G.) in Session Trial No. 63/2009; and

10.4 Any other relief, which this Hon'ble Court may deem fit and proper looking to the facts and circumstances of the case, may also kindly be granted in favour of the petitioner. ”

3. Brief facts of the case are that the petitioner is undergoing sentence pursuant to the judgment of conviction dated 07.05.2013 passed by the learned 2nd Additional Sessions Judge, Raigarh in



Sessions Trial No.63/2009, whereby he was convicted for offences under Sections 148, 452, 325, 506-B, 364 and 302 of the Indian Penal Code and was sentenced, inter alia, to imprisonment for life. The appeal preferred by the petitioner being Cr.A. No.552/2013 was dismissed by this Hon'ble Court vide judgment dated 10.11.2016 and the Special Leave Petition filed thereafter also came to be dismissed by the Hon'ble Supreme Court on 19.01.2018.

4. It is the case of the petitioner that he remained in custody from 25.03.2009 to 13.09.2020 and thereafter is again in custody since 26.01.2021. As per the information supplied under the Right to Information Act, 2005 as on 03.06.2026, the petitioner has undergone actual imprisonment of more than 16 years and 10 months and has further earned remission of 4 years, 9 months and 21 days and, thus, has completed more than 21 years of imprisonment including earned remission. The petitioner submits that after becoming eligible, he moved an application on 10.04.2025 under Section 432 of the Code of Criminal Procedure, 1973 for remission of the remaining part of sentence. Pursuant thereto, opinion of the learned sentencing Court was sought and vide memo dated 26.04.2025, the learned 2nd Additional Sessions Judge, Raigarh opined that if otherwise not prohibited, there would be no objection in case the petitioner is considered for release after completion of 14 years of actual imprisonment and 20 years of imprisonment together with earned remission.



Thereafter, the petitioner's case was processed through the jail authorities; jail reports were prepared under Rule 358 of the Chhattisgarh Prison Rules, 1968; and the matter was forwarded for consideration of premature release/remission.

5. However, by the impugned order dated 07.05.2026, the respondent No.2 rejected the petitioner's case for premature release/remission of the remaining part of sentence, mainly on the basis of the adverse recommendation/opinion of the State Sentence Review Board. Aggrieved thereby, the petitioner has preferred the present writ petition seeking quashment of the said order and a direction to the respondents to grant him remission/premature release in accordance with law.
6. Learned counsel for the petitioner submits that the impugned order dated 07.05.2026 is arbitrary, mechanical, non-speaking and unsustainable in law. He would submit that the petitioner has already undergone actual incarceration for more than 16 years and 10 months and, together with earned remission of 4 years, 9 months and 21 days, has completed more than 21 years of imprisonment. According to him, once the petitioner had crossed the threshold of eligibility for consideration of premature release/remission, his case was required to be considered on relevant, rational and legally permissible parameters, but the respondents have rejected the same in a wholly perfunctory manner. He would further submit that the impugned order does



not reflect any independent application of mind by the competent authority and appears to have been passed merely on the basis of the negative recommendation of the State Sentence Review Board. It is contended that the order does not disclose any reasons as to why, despite the petitioner having undergone the requisite period of incarceration and having earned substantial remission, his claim was not found fit for acceptance. According to learned counsel, an order affecting the liberty of a convict cannot be passed in such a cryptic fashion, particularly when it does not deal with the petitioner's jail conduct, possibility of reformation, age, health, socio-economic background, family circumstances and prospects of reintegration into society.

7. It is contended by learned counsel for the petitioner that the petitioner has a legal right to be considered for remission/premature release in a fair, reasonable and non-arbitrary manner. Though remission may not be claimed as an absolute right, the right to be considered in terms of the applicable statutory provisions and remission framework is undoubtedly a legal right. In the present case, the petitioner's claim has not been examined on the touchstone of the relevant statutory considerations and, therefore, the impugned decision stands vitiated by non-application of mind. He also submits that the materials on record clearly demonstrate that the petitioner's case merited proper and meaningful consideration. The learned sentencing Court, while giving its opinion on 26.04.2025,



observed that if otherwise not prohibited, there would be no objection in considering the petitioner's case after completion of 14 years of actual imprisonment and 20 years with remission. It is further submitted that the petitioner's conduct in jail has remained good and no adverse remark has been recorded against him by the jail authorities. He would also point out that the petitioner had availed parole on several occasions and there was no complaint whatsoever regarding his conduct during the parole period. According to learned counsel, these are relevant circumstances indicative of reformatory progress, yet the same have been completely ignored by the respondents.

8. It is further contended that the respondents, while rejecting the petitioner's case, have given undue emphasis to the nature of the offence and the adverse recommendation of the State Sentence Review Board, District Magistrate and Superintendent of Police, while completely overlooking the settled legal position that the gravity of the offence cannot be the sole basis for denying remission. Learned counsel would submit that the seriousness of the crime stands considered at the stage of conviction and sentencing; however, at the stage of remission or premature release, the authority is required to consider the post-conviction conduct of the prisoner, his reformation, possibility of recurrence, utility of further incarceration and his prospects of social reintegration. According to him, the petitioner's case has not been examined on these relevant parameters and the rejection is



therefore legally unsustainable. He would next submit that the petitioner has already spent a substantial part of his life in custody and no fruitful purpose would now be served by his continued incarceration. It is argued that the petitioner has undergone prolonged imprisonment extending beyond 16 years and 10 months of actual sentence and more than 21 years with remission, and therefore the continued denial of premature release, despite satisfactory jail conduct and completion of the requisite period, defeats the reformatory object of the remission policy and the statutory framework governing premature release.

9. Placed reliance upon the decisions of the Hon'ble Supreme Court in ***Rohit Chaturvedi v. State of Uttarakhand & Others, 2026 SCC OnLine SC 865, Rajo @ Rajwa @ Rajendra Mandal v. State of Bihar & Others, 2023 SCC OnLine SC 1068, Rajkumar v. State of U.P., (2024) 9 SCC 598, Laxman Naskar v. State of W.B., (2000) 7 SCC 626 and State of Haryana v. Mahender Singh, (2007) 13 SCC 606***, to contend that the right of a life convict to be considered for remission in terms of the applicable policy is a legal right; that the competent authority must pass a reasoned order reflecting due application of mind; that the gravity of the offence alone cannot be the sole basis for denying remission; and that while considering premature release, the authorities are required to evaluate the prisoner's post-conviction conduct, possibility of reformation, socio-economic condition, likelihood of reintegration and whether any fruitful purpose would



be served by continued incarceration. On the strength of the aforesaid submissions, learned counsel for the petitioner would submit that the impugned order dated 07.05.2026 deserves to be quashed and set aside and the respondents deserve to be directed to grant the petitioner the benefit of remission/premature release under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 / Section 432 of the Code of Criminal Procedure, 1973 read with Rule 358 of the Chhattisgarh Prison Rules, 1968, or at least to reconsider his case afresh in accordance with law within a time-bound period.

10. Per contra, learned State counsel would oppose the petition and submit that the petitioner stands convicted vide judgment dated 07.05.2013 passed by the learned 2nd Additional Sessions Judge, Raigarh (C.G.) in Sessions Trial No.63/2009 for offences punishable under Sections 148, 452, 325, 506-B, 364 and 302 of the Indian Penal Code, and the said conviction has already been affirmed by this Hon'ble Court in Criminal Appeal No.552/2013, while the Special Leave Petition preferred thereagainst has also been dismissed by the Hon'ble Supreme Court. It is submitted that the offences for which the petitioner has been convicted are grave and serious in nature, involving kidnapping and murder, and therefore the petitioner does not deserve the discretionary relief of premature release/remission merely on the ground of long incarceration. Learned State counsel would further submit that although certain favourable opinions/recommendations were



furnished by the Jail Authorities and the learned sentencing Court, adverse opinion was expressed by the State Sentence Review Board on the basis of the reports/comments received from the District Magistrate and the Superintendent of Police, Raigarh, and the competent authority, after considering the entire material placed before it, rejected the petitioner's case for remission/premature release vide order dated 07.05.2026. It is contended that while considering a claim for remission under Section 432 of the Code of Criminal Procedure, 1973 / Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and Rule 358 of the Chhattisgarh Prison Rules, 1968, the State Government is entitled to take into account the nature and gravity of the offence, its impact on society, the opinion of the concerned authorities and the overall public interest, and remission cannot be claimed as a matter of vested right. According to learned State counsel, mere completion of 14 years or long period of incarceration, or even satisfactory jail conduct, does not ipso facto confer an indefeasible right upon the petitioner to seek premature release. It is thus submitted that the competent authority has taken a conscious decision after considering all relevant factors and the impugned order does not suffer from any illegality, arbitrariness, perversity or non-application of mind warranting interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Therefore, the present petition, being devoid of merit, deserves to be dismissed.



11. We have heard learned counsel for the parties and have carefully perused the pleadings, annexures and the material available on record.
12. The petitioner stands convicted vide judgment dated 07.05.2013 passed by the learned 2nd Additional Sessions Judge, Raigarh (C.G.) in Sessions Trial No.63/2009 for offences punishable under Sections 148, 452, 325, 506-B, 364 and 302 of the Indian Penal Code. The conviction has attained finality inasmuch as Criminal Appeal No.552/2013 preferred by the petitioner was dismissed by this Court on 10.11.2016 and the Special Leave Petition filed before the Hon'ble Supreme Court also came to be dismissed on 19.01.2018. It is not in dispute that the petitioner remained in custody from 25.03.2009 to 13.09.2020 and thereafter is again in custody since 26.01.2021. As per the information dated 03.06.2026 placed on record, the petitioner has undergone actual incarceration of more than 16 years and 10 months and has also earned remission of 4 years, 9 months and 21 days, thereby completing more than 21 years of sentence including earned remission.
13. The record further reveals that the petitioner's case for remission/premature release was processed by the jail authorities; the learned sentencing Court, vide memo dated 26.04.2025, opined that it had no objection if the petitioner was released after undergoing the requisite actual sentence and sentence with



remission; and the jail reports prepared under Rule 358 of the Chhattisgarh Prison Rules, 1968 do not reflect any adverse conduct on the part of the petitioner.

14. The petitioner's claim for remission/premature release, however, came to be rejected by respondent No.2 vide order dated 07.05.2026 principally on the basis of the negative recommendation/opinion of the State Sentence Review Board. A careful perusal of the impugned order shows that it does not independently analyse the petitioner's case in the light of the relevant statutory factors, but proceeds largely on the adverse opinion furnished by the Review Board, which in turn appears to have been founded upon the reports/opinions of the District Magistrate and Superintendent of Police. The impugned order does not indicate any objective consideration of the petitioner's long incarceration, earned remission, jail conduct, repeated paroles availed without complaint, or the favourable opinion of the sentencing Court. It is, therefore, apparent that the impugned decision is cryptic in nature and does not reflect due and independent application of mind to the material germane for deciding a case of premature release.
15. At this stage, it would be apposite to notice that the petitioner has invoked his claim under Section 432 of the Code of Criminal Procedure, 1973 / Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Rule 358 of the Chhattisgarh Prison



Rules, 1968. The scheme of Rule 358, read with the remission provisions, contemplates fair consideration of the case of a life convict who has undergone the prescribed period of actual sentence and sentence with remission, while taking into account factors such as jail conduct, possibility of reformation, antecedents, and suitability for reintegration into society. The provision is founded on the reformatory theory of punishment and does not permit the claim for premature release to be rejected in a mechanical manner solely on the basis of the nature of the original offence, once the convict has undergone the qualifying period and the statutory requirements otherwise stand satisfied.

16. It is by now well settled that though remission or premature release cannot be claimed as an absolute right, a convict certainly has a legal right to be considered for such relief in a fair, reasonable and non-arbitrary manner in accordance with the governing policy/rules. In ***Laxman Naskar v. State of West Bengal, (2000) 7 SCC 626***, the Hon'ble Supreme Court held that while considering premature release, the competent authority must examine relevant factors such as whether the offence is an individual act without affecting society at large, the likelihood of the crime being repeated, the potentiality of the convict to commit crime in future, and whether any fruitful purpose would be served by keeping the convict in prison any longer. In ***Rajo @ Rajwa @ Rajendra Mandal v. State of Bihar, 2023 SCC OnLine SC 1068***, the Supreme Court reiterated that the object of imprisonment,



even in serious offences, is ultimately reformatory and that while considering premature release the authorities must evaluate post-conviction conduct, age, health, familial circumstances, possibility of reintegration and whether continued incarceration serves any useful purpose. More recently, in ***Rohit Chaturvedi v. State of Uttarakhand, 2026 SCC OnLine SC 865***, it has been emphasized that an order rejecting remission must be a reasoned one and cannot rest merely on a bald conclusion or on the heinousness of the offence alone.

17. The philosophy underlying premature release is reformatory rather than retributive. Long incarceration, coupled with satisfactory jail conduct, earned remission, repeated release on parole without any complaint and favourable opinion of the learned sentencing Court, entitles a life convict to fair, objective and meaningful consideration under Section 432 of the Code of Criminal Procedure, 1973 / Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Rule 358 of the Chhattisgarh Prison Rules, 1968. In the present case, the petitioner has already undergone more than 16 years and 10 months of actual incarceration and more than 21 years of sentence together with earned remission. The record further indicates that the learned 2nd Additional Sessions Judge, Raigarh, while furnishing opinion in respect of the petitioner's case, did not express objection to his release after completion of the requisite period, and the jail record also does not disclose any adverse conduct disentitling him from



consideration. Once the petitioner satisfied the requisite eligibility criteria and there was no statutory bar operating against him, denial of premature release merely on the basis of a mechanical and adverse recommendation, without due consideration of the relevant factors governing remission, amounts to arbitrariness and offends the mandate of Article 14 of the Constitution of India.

18. 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 vide order dated 07.05.2026 is founded more on conjecture and a mechanical acceptance of the negative recommendation of the State Sentence Review Board than on any cogent and objective material. The impugned order does not reflect independent application of mind to the petitioner's long incarceration, his earned remission of 4 years, 9 months and 21 days, his satisfactory jail conduct, the fact that he had availed parole on several occasions without any complaint, and the favourable opinion of the learned sentencing Court. The positive material placed in favour of the petitioner has not been accorded due weightage, whereas the adverse opinion appears to have been accepted as conclusive without testing it on the touchstone of the governing legal principles. The impugned order, therefore, cannot be sustained in the eyes of law.
19. Considering the petitioner's long period of incarceration, satisfactory conduct in jail, earned remission, favourable opinion



of the learned sentencing Court and absence of any statutory embargo disentitling him from consideration, this Court holds that the petitioner is entitled to the benefit of premature release/remission. The action of the respondent authorities in denying such benefit by passing a cryptic order dated 07.05.2026, founded substantially on the adverse recommendation of the State Sentence Review Board without proper evaluation of the petitioner's reformation and eligibility, is arbitrary and violative of Article 14 of the Constitution of India, as explained in ***E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3.***

20. In view of the foregoing discussion, the petition is allowed. The impugned order dated 07.05.2026 passed by respondent No.2 is hereby quashed and set aside. The respondents are directed to grant the benefit of remission/premature release to the petitioner and release him forthwith, if not required in any other case, subject to compliance with the usual terms and conditions as may be imposed under the Chhattisgarh Prison Rules, 1968.
21. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice