

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 9005 of 2026**

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SHAMSHERKHAN ALLAUDDINKHAN
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR BJ PRIYADARSHI(6016) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2,3,4

MR TRUPESH KATHIRIYA, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 31/07/2026****ORDER****Order in Special Criminal Application No.9005 of 2026**

1. By filing the present petition under Article 226 of the Constitution of India, the petitioner has prayed for the following relief:

“(A) Be pleased to admit and allow this application.

(B) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ and passed the order or direction and quash and set aside the impugned decision dated 6/5/2026 passed by the respondent No.4 (at Annexure-B hereto) and further be pleased to direct the respondent authority to release the petitioner from prison as the petitioner has already served more than 19 years of imprisonment as on date.

(C) Be pleased to directed the authority respondent No- 4. The State Government to reconsidered the remission application of the present petitioner U/S 473 and 475 A of the BNS S of 2023 (432, 433A OF CR PC 1973) within a stipulated period.

(D). Your Lordship Pleased grant the long parole leave till the disposal the this application of remissions under section 473 and 475 of BNS S of 2023 (432, 433A OF CR PC 1973).

(E). Be pleased to grant such other and further relief/s which may deem fit and proper in the interest of justice.

(F). Affidavit may kindly dispensed with as the applicant is in jail.”

2. The petitioner came to be convicted for an offence punishable under Section 302 of the Indian Penal Code (hereinafter, to be referred as the IPC) and was sentenced to undergo life imprisonment. The petitioner has undergone incarceration for a period of 17 years and 9 months. Vide impugned order, the respondent-state has rejected the case of the petitioner for grant of remission. Being aggrieved by the same, the petitioner is here before this Court by filing the present petition.

3. Heard learned advocate Shri. B. J. Piyadarshi appearing for the petitioner. He submitted that the Jail Advisory Committee had given a positive opinion for granting the benefit of remission

to the petitioner. However, the respondents have passed the impugned order relying upon three instances when the petitioner had absconded on earlier occasions. He submitted that otherwise, the conduct of the petitioner in jail was good. He therefore submitted to allow the present petition and quash and set aside the order impugned in the petition and direct the respondent authorities to release the petitioner forthwith by granting him benefit of remission.

4. Learned APP has opposed the petition contending that the petitioner had absconded earlier on three occasions and therefore, his conduct in the jail is not satisfactory. Therefore, the respondent state has rightly passed the impugned order. He therefore submitted to dismiss the petition.

5. Heard learned advocates for the parties. The petitioner herein has undergone incarceration for 17 years and 9 months. Thus, the petitioner herein after being convicted has undergone the sentence for the aforesaid period. The perusal of the impugned order would indicate that the Jail Advisory Committee had given a positive opinion as regards grant of remission to the petitioner. However, the respondents, while passing the impugned order, have taken into consideration three instances of the petitioner having absconded when he was earlier released. However, in two out of those three instances, the period of abscondence has already been regularized. The conduct of the petitioner is otherwise reported to be satisfactory.

6. Having regard to these aspects, the order impugned in the petition is quashed and set aside. The state authorities shall

take an appropriate decision on the case of the petitioner for grant of remission afresh in accordance with law and without being influenced by the order impugned in the present petition. Such an exercise shall be carried out by the respondents within a period of four months from the date of receipt of the present order.

7. With these observations, the present petition stands disposed of.

Order in Criminal Misc. Application No.1 of 2026 in Special Criminal Application No.9005 of 2026

In the main petition, the respondent authorities have been directed to reconsider the case of the applicant for grant of remission afresh within a period of four months.

Having regard to the fact that the applicant has undergone incarceration for more than 17 years, he is ordered to be released on parole leave for a period of four months or till the respondents take decision afresh pursuant to the order of this Court in the main petition, whichever is earlier.

Accordingly, the present application stands disposed of.

AHS

(M. R. MENGDEY,J)