



CGHC010254822026



2026:CGHC:29889-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 392 of 2026**

Anand Dheemar S/o Shri Dashrath @ Jolo Dheemar Aged About 40 Years (About 22 Years At The Time Of Entry Into Jail), R/o Village- Mudpar, Police Station- Naila (Earlier It Was Police Outpost- Naila, Police Station Janjgir), District- Janjgir-Champa (C.G.)

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

1. State of Chhattisgarh Through- The Secretary, Jail Department, Mantralaya, Mahanadi Bhawan, Raipur (C.G.)
2. The Under Secretary State of Chhattisgarh, Jail Department, Mantralaya, Mahanadi Bhawan, Raipur (C.G.)
3. The Director General Prisons And Correctional Services Chhattisgarh, Head Quarter- Prisons And Correctional Services Chhattisgarh, Raipur (C.G.)
4. The Jail Superintendent Central Jail, Bilaspur (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Rishi Rahul Soni, Advocate.
For Respondent/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

15.07.2026

1. Heard Mr. Rishi Rahul Soni, learned counsel for the petitioner. Also heard Mr. Priyank Rathi, learned Government Advocate, appearing for the State/respondents.
2. The present writ petition has been filed by the petitioner with the following prayers:

“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 15.01.2026 (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 10.06.2009 passed by the learned Additional Session Judge, Janjgir, District Janjgir-Champa (C.G.) in Session Trial No. 162 of 2008; 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. Learned counsel for the petitioner submits that the petitioner is a convicted prisoner presently lodged in Central Jail, Bilaspur (C.G.). It is submitted that the petitioner remained in custody from 04.08.2008 to 29.08.2020 and is again in custody since 27.01.2021. Thus, the petitioner has undergone about 17 years and 06 months of actual imprisonment. It is further submitted that, as per the information dated 19.03.2026 supplied under the Right to Information Act, 2005, the petitioner has earned 05 years, 10 months and 11 days of remission. Consequently, the petitioner has completed more than 23 years of sentence, including earned remission.

4. Learned counsel for the petitioner further submits that the petitioner was convicted vide judgment dated 10.06.2009 passed by the learned Additional Sessions Judge, Janjgir, District Janjgir-Champa (C.G.) in Sessions Case No. 162/2008 for the offences punishable under Sections 147, 148, 302/149 (three counts) and 307/149 of the IPC. He was sentenced to undergo rigorous imprisonment for 02 years under Section 147 IPC, 03 years under Section 148 IPC, imprisonment for life under Section 302/149 IPC in respect of the murders of Chhedilal, Bablu @ Pradeep and Bhuru @ Parmanand, and 07 years' rigorous imprisonment under Section 307/149 IPC in respect of the injured Birichh Ram, along with the respective fines and default

stipulations. He also submitted that the petitioner's appeal, being Criminal Appeal No. 598/2014, was dismissed by this Court vide judgment dated 13.05.2014. Thereafter, the petitioner's appeal before the Hon'ble Supreme Court, being Criminal Appeal No. 197/2018, also came to be dismissed vide order dated 23.01.2018.

5. It is further contended Learned counsel submits that thereafter the petitioner's case for remission under Section 432 of the Cr.P.C. was initiated. Accordingly, by letter dated 16.10.2023, the matter was referred to the learned 1st Additional Sessions Judge, Janjgir, District Janjgir-Champa, for opinion. The learned Judge, vide letter dated 01.11.2023, expressed no objection to the petitioner's release by grant of remission. Thereafter, on 06.02.2024, the petitioner's case was forwarded to the competent authority. He further submitted that, however, the Under Secretary, State of Chhattisgarh, Jail Department, Raipur, by order dated 04.09.2024, rejected the petitioner's claim for remission on the ground that, in view of Rule 358(3)(g)(two) of the C.G. Prisons Rules, 1968, the benefit of Section 432 Cr.P.C. could not be extended to the petitioner.

6. Learned counsel for the petitioner further stated that being aggrieved, the petitioner filed WPCR No. 106/2025 on 14.02.2025, challenging both the validity of Rule 358(3)(g)(two) of the C.G. Prisons Rules, 1968 and the order dated 04.09.2024. The said writ petition was allowed by this Court vide order dated 21.03.2025, whereby the order dated 04.09.2024 was set aside and the matter was remitted to the

State Government with a direction to reconsider the petitioner's case afresh after obtaining a fresh opinion from the concerned Sessions Judge. The State Government was further directed to decide the petitioner's application within two months from the date of receipt of such opinion. He further submitted that, pursuant to the aforesaid order, the petitioner submitted a fresh application for remission on 30.03.2025. Thereafter, the Jail Superintendent, Central Jail, Bilaspur, by letter dated 01.04.2025, sought the opinion of the learned Sessions Judge, Janjgir-Champa. The petitioner also submitted representations dated 07.04.2025, which were forwarded on 08.04.2025 to the concerned authorities along with a copy of the order dated 21.03.2025. Since no opinion was received, a reminder was issued on 10.05.2025, and thereafter, the learned 1st Additional Sessions Judge, Janjgir, vide memo dated 20.05.2025, once again expressed no objection to the petitioner's release on remission.

7. Learned counsel for the petitioner further submits that thereafter the petitioner's case was forwarded to the Director General, Prisons and Correctional Services, Chhattisgarh, on 29.05.2025. The petitioner also submitted an application in August, 2025 seeking his release. On 27.08.2025, the Jail Superintendent prepared the jail report under Rule 358 of the C.G. Prisons Rules, 1968 and, on the same day, sought the opinion of the District Magistrate, Janjgir-Champa, regarding the petitioner's premature release. Subsequently, on 24.09.2025, the petitioner's case, along with the relevant case details, was again forwarded to the Director General, Prisons and Correctional Services,

Chhattisgarh.

8. It is lastly submitted that despite the earlier order passed by this Court and the favourable opinions of the learned Sessions Judge dated 01.11.2023 and 20.05.2025, respondent No. 2, by order dated 15.01.2026, again rejected, in substance, the petitioner's case for premature release by exercising powers under Section 473(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 [corresponding to Section 432(1) of the Cr.P.C.], solely on the ground that, in view of Rule 358(6) of the C.G. Prisons Rules, 1968, the case of a prisoner convicted in a triple murder case could be placed before the State Sentence Review Board only after completion of 20 years of actual imprisonment and, since the petitioner had not completed the said period of actual imprisonment, his case was held to be not fit for consideration. Hence, the present petition.

9. On the other hand, learned State counsel opposes the petitioner's application for remission and submits that the authorities have rightly rejected the prayer for grant of remission.

10. We have heard learned counsel for the parties, perused the pleadings and documents appended thereto.

11. In order to consider the plea raised at the Bar, it would be appropriate to notice Section 432 of the Cr.P.C (now under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023) which states as under :-

“432. Power to suspend or remit sentences.—(1)

When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension

of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and:

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in Section 433 of the Cr.P.C. (now under Section 474 of the BNSS), the expression “appropriate Government” means,—

(a) in cases where the sentence is for an offence against, or the Criminal Appeal @ Special Leave Petition (Crl.) No. 6166 of 2023 (page 7 to 17) order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

(b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.” (emphasis added) Under sub-section (1) of Section 432 of the CrPC, the appropriate Government

has the power to remit the whole or any part of the punishment of a convict. The remission can be granted either unconditionally or subject to certain conditions. As expressly provided under sub-section (1) of Section 432, actual remission takes effect only after the convict accepts the conditions. Thus, there is no doubt that there exists a power in the appropriate Government to grant remission subject to compliance with conditions.”

12. Insofar as the exercise of power under sub-section (1) of Section 432 of the Cr.P.C. is concerned, the Constitution Bench in the case of ***Union of India vs. V. Sriharan alias Murugan & Others***, reported in **(2016) 7 SCC 1** has approved the view taken by the Hon’ble Supreme Court in the case of ***Mohinder Singh vs. State of Punjab***, reported in **(2013) 3 SCC 294**. The view taken is that the decision to grant remission has to be well-informed, reasonable and fair to all concerned.

13. In ***Mafabhai Motibhai Sagar v. State of Gujarat & Others***, in **CRA No. 4370 of 2024**, decided on **21.10.2024**, the Hon’ble Apex Court has observed as under:

“11. It is no doubt true that the power to remit a sentence under Section 432(1) of the Cr.P.C. is discretionary. One of the considerations for the exercise of the discretion can be public interest. The gravity and nature of the offences committed by the convict are also factors to be considered. The antecedents of the convict are also relevant. Almost all the States have a written policy on the grant of remission under Section 432(1) of the Cr.P.C. For example, the 1st respondent, the State of Gujarat, has

a policy that forms part of the Government Resolution dated 23rd January 2014, which was amended from time to time. The said Government Resolution incorporates guidelines/policy for consideration of cases for grant of remission and premature release of prisoners. The existence of a rational policy is necessary to prevent the arbitrary exercise of power to grant a remission under Section 432(1) of the Cr.P.C. A convict cannot seek remission as a matter of right. However, he has a right to say that his case for the grant of remission ought to be considered in accordance with the law. The power under sub-section (1) of Section 432 of the CrPC has to be exercised in a fair and reasonable manner. Therefore, conditions imposed while exercising the power under sub-section (1) of Section 432 of the Cr.P.C. must be reasonable. The conditions must stand the test of scrutiny of Article 14 of the Constitution of India. If the conditions imposed are arbitrary, the conditions will stand vitiated due to violation of Article 14 of the Constitution of India. Such arbitrary conditions may also violate the convict's rights under Article 21 of the Constitution of India.

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17. Our conclusions can be summarised as under:

(i) Under subsection (1) of Section 432 of the CrPC or sub section (1) of Section 473 of the BNSS, the appropriate Government has the power to remit the whole or any part of the punishment of a convict. The remission can be granted either unconditionally or subject to certain conditions;

(ii) The decision to grant or not to grant remission has

to be well informed, reasonable and fair to all concerned;

(iii) A convict cannot seek remission as a matter of right. However, he has a right to claim that his case for the grant of remission ought to be considered in accordance with the law and/or applicable policy adopted by the appropriate Government;

(iv) Conditions imposed while exercising the power under subsection (1) of Section 432 or subsection (1) of Section 473 of the BNSS must be reasonable. If the conditions imposed are arbitrary, the conditions will stand vitiated due to violation of Article 14. Such arbitrary conditions may violate the convict's rights under Article 21 of the Constitution;

(v) The effect of remitting the sentence, in part or full, results in the restoration of liberty of a convict. If the order granting remission is to be cancelled or revoked, it will naturally affect the liberty of the convict. The reason is that when action is taken under subsection (3) of Section 432 of the CrPC or subsection (3) of Section 473 of the BNSS, it results in the convict being taken to prison for undergoing the remaining part of the sentence. Therefore, this drastic power cannot be exercised without following the principles of natural justice. A show cause notice must be served on the convict before taking action to withdraw/cancel remission. The show cause notice must contain the grounds on which action under sub section (3) of Section 432 of the CrPC or subsection (3) of Section 473 of BNNS is sought to be taken. The concerned authority must give the convict an opportunity to file a reply and of being heard. After that, the authority must

pass an order stating the reasons in brief. The convict can always challenge the order of cancellation of remission by adopting a remedy under Article 226 of the Constitution of India.; and

(vi) Registration of a cognizable offence against the convict, per se, is not a ground to cancel the remission order. The allegations of breach of condition cannot be taken at their face value, and whether a case for cancellation of remission is made out will have to be decided in the facts of each case. Every case of breach cannot invite cancellation of the order of remission. The appropriate Government will have to consider the nature of the breach alleged against the convict. A minor or a trifling breach cannot be a ground to cancel remission. There must be some material to substantiate the allegations of breach. Depending upon the seriousness and gravity thereof, action can be taken under subsection (3) of Section 432 of the CrPC or subsection (3) of Section 473 of the BNSS of cancellation of the order remitting sentence.”

14. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the petitioner has undergone about 17 years and 06 months of actual imprisonment and, as per the information dated 19.03.2026 furnished under the Right to Information Act, 2005, has earned 05 years, 10 months and 11 days of remission, thereby completing more than 23 years of sentence including earned remission. It is also not in dispute that the petitioner's case for grant of remission was considered by the competent authorities and the learned 1st Additional Sessions Judge, Janjgir, vide communications

dated 01.11.2023 and 20.05.2025, expressed no objection to the petitioner's release by grant of remission. Pursuant thereto, the Jail Authorities forwarded the petitioner's case to the competent authority for consideration. It is also significant that this Court, while deciding WPCR No. 106/2025 on 21.03.2025, had already set aside the earlier order dated 04.09.2024 and directed the State Government to reconsider the petitioner's case afresh after obtaining a fresh opinion from the concerned Sessions Judge.

15. Despite the aforesaid directions issued by this Court and the favourable opinion of the learned Sessions Judge, respondent No. 2, by the impugned order dated 15.01.2026, has once again rejected, in substance, the petitioner's claim for remission solely on the ground that, in view of Rule 358(6) of the Chhattisgarh Prison Rules, 1968, the case of a prisoner convicted in a triple murder case could be placed before the State Sentence Review Board only after completion of 20 years of actual imprisonment. The impugned order neither considers the effect of the earlier order passed by this Court nor assigns any reason for disagreeing with the favourable opinions recorded by the learned Sessions Judge on two occasions. The authority has thus failed to undertake an independent and objective consideration of the petitioner's case as required under Section 432 of the Cr.P.C. (now Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023).

16. The Constitution Bench of the Hon'ble Supreme Court in **V. Sriharan alias Murugan** (supra), while approving the principles laid

down in ***Mohinder Singh*** (supra), has held that the exercise of power under Section 432 of the Cr.P.C. must be well-informed, reasonable and fair. The Hon'ble Supreme Court has further reiterated in ***Mafabhai Motibhai Sagar*** (supra), that although a convict cannot claim remission as a matter of right, he certainly possesses the right to have his case considered in accordance with law and the applicable policy, and that the power under Section 432 of the Cr.P.C. (now Section 473 of the BNSS) must be exercised in a fair, reasonable and non-arbitrary manner. In the present case, the petitioner has completed more than 23 years of sentence including earned remission; the learned Sessions Judge has twice expressed no objection to his premature release; and there is no material on record to indicate that the petitioner is disentitled to the benefit of remission on any legally sustainable ground. The rejection of the petitioner's claim solely on the basis of Rule 358(6), without objectively considering the relevant facts and the earlier directions issued by this Court, is arbitrary and contrary to the principles laid down by the Hon'ble Supreme Court in the aforesaid decisions.

17. In view of the foregoing discussion and applying the principles laid down by the Hon'ble Supreme Court in ***V. Sriharan alias Murugan*** (supra) and ***Mafabhai Motibhai Sagar*** (supra), this Court is of the considered opinion that the impugned order dated 15.01.2026 cannot be sustained in law and deserves to be quashed. Accordingly, the writ petition is allowed. The impugned order dated 15.01.2026 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 his custody is not required in connection with any other case, subject to compliance with the usual terms and conditions governing premature release under the Chhattisgarh Prison Rules, 1968. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice