



2026:CGHC:27133-DB

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 609 of 2025**

Neeraj Mali @ Golu S/o Late Shri Shankar Mali Aged About 46 Years  
R/o Milan Chowk, Kududand, Bilaspur, Police Station - Civil Line  
Bilaspur, District - Bilaspur (C.G.)

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

1. State of Chhattisgarh Through - The Secretary, Home (Jail) Department, Mantralaya, Mahanadi Bhawan, Raipur (C.G.)
2. The Under Secretary Home (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)

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For Petitioner	:	Mr. Rishi Rahul Soni and Ms. Ananya Chatterjee, Advocates.
For Respondent/State	:	Mr. Shashank Thakur, Additional Advocate General.

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**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 Mr. Rishi Rahul Soni, learned counsel for the petitioner along with Ms. Ananya Chatterjee, learned counsel. Also heard Mr. Shashank Thakur, learned Additional Advocate General, appearing for the State/respondents.
2. The present petition has been filed by the petitioner with the following prayers:

*“10.1 The Hon’ble Court may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents 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 letter/order dated 09.07.2025 (Annexure P/1) and the letter/order dated 24.03.2023 (Annexure P/3) issued by the respondent No. 2 and the mercy petition filed by the petitioner under Article 161 of the Constitution of India may kindly be allowed;*

*10.3 The Hon’ble Court may kindly be pleased to issue a suitable writ, order or direction commanding respondent authorities to grant the petitioner pardon under Article 161 of the Constitution of India and release him from jail;*

Or

*The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction commanding respondent authorities to reconsider the mercy petition filed by the petitioner for grant of pardon under Article 161 of the Constitution of India; and*

*10.4 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed 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.). The petitioner has remained in custody during different spells commencing from 06.09.1999 and, after accounting for the periods when he was released on bail, he has continuously undergone substantial incarceration. As per the information supplied by the jail authorities, the petitioner has remained in custody from 06.09.1999 to 01.05.2002, from 30.05.2002 to 29.03.2003, from 02.12.2015 to 12.07.2018, from 28.07.2018 to 17.01.2020, from 28.01.2020 to 04.08.2020, from 01.02.2021 to 20.05.2022, from 05.06.2022 to 25.10.2023, from 30.10.2023 to 10.02.2025, on 21.02.2025 and continuously since 27.02.2025.

4. It is further submitted by the learned counsel for the petitioner that the petitioner was convicted by the learned 1<sup>st</sup> Additional Sessions Judge, Bilaspur, in Sessions Trial No. 91/2000 vide judgment dated 18.04.2001 for the offences punishable under Sections 302 and 148 of the Indian Penal Code (IPC) and was sentenced to undergo

imprisonment for life with fine. The appeal preferred by the petitioner, namely Criminal Appeal No. 388/2001, came to be dismissed by this Hon'ble Court vide judgment dated 09.07.2015. Thereafter, the petitioner preferred Special Leave to Appeal (Criminal) No. 1294/2016 before the Hon'ble Supreme Court, which was dismissed on 26.02.2016. The petitioner thereafter filed Review Petition (Criminal) No. 608/2016, which also came to be dismissed by the Hon'ble Supreme Court vide order dated 16.11.2016. Consequently, the conviction and sentence attained finality.

**5.** Learned counsel for the petitioner would submit that after attaining finality of the conviction, the petitioner invoked the power of clemency by submitting an application under Rule 775 of the Chhattisgarh Prisons Rules, 1968 on 07.01.2016 followed by a mercy petition dated 28.01.2016 seeking pardon and remission of the remaining sentence under Article 161 of the Constitution of India. He further submitted that the mercy petition was processed in accordance with law. The Superintendent, Central Jail, Bilaspur, the Superintendent of Police, Bilaspur and the District Magistrate, Bilaspur considered the case of the petitioner and made favourable recommendations. Thereafter, the Additional Director General, Jail and Correctional Services forwarded the entire record to the Principal Secretary, Home (Jail) Department for consideration under Article 161 of the Constitution.

**6.** It is further contended by the learned counsel for the petitioner that during the course of processing, certain communications were

exchanged between the authorities regarding the actual period of imprisonment undergone by the petitioner and the applicability of Section 433-A of the Cr.P.C. Eventually, it was specifically clarified by the jail authorities that the petitioner's case had not been forwarded under Section 433-A Cr.P.C. for statutory remission but had been forwarded for consideration of executive clemency under Article 161 of the Constitution of India. Thereafter, a case summary was prepared and placed before the Hon'ble Governor for consideration. He also contended that the mercy petition ultimately came to be rejected on 24.03.2023. Subsequently, on 31.07.2023, the petitioner's wife submitted an application requesting reconsideration of the petitioner's mercy petition in view of the changed circumstances and the long period of incarceration already undergone by the petitioner. However, by communication dated 09.07.2025, the authorities declined to consider the request solely on the ground that Rule 775 of the Chhattisgarh Prisons Rules, 1968 does not contain any provision permitting reconsideration after rejection of a mercy petition.

7. It is further stated by the learned counsel, appearing for the petitioner that the aforesaid approach is wholly erroneous and contrary to the scheme of Rule 775 as well as the constitutional power contained in Article 161 of the Constitution of India. It is submitted that Rule 775 itself contemplates successive mercy petitions in appropriate cases. In the case of prisoners sentenced to a fixed term of imprisonment of not less than five years, a subsequent mercy petition is maintainable after completion of half of the sentence. In the case of a life convict, Section

57 of the IPC provides that imprisonment for life shall be reckoned as equivalent to twenty years only for the limited purpose of calculating fractions of punishment wherever required by law. By the time the application dated 31.07.2023 was submitted, the petitioner had already undergone more than ten years of imprisonment and, therefore, had completed the equivalent of one-half of the period contemplated under Section 57 IPC for such limited purpose. Consequently, the authorities were required to consider the petitioner's request on merits instead of rejecting it as not maintainable.

8. Learned counsel further submits that the rejection of the mercy petition also suffers from a fundamental legal error inasmuch as it appears to have proceeded on the premise that the petitioner had not completed fourteen years of actual imprisonment. Such reasoning is legally unsustainable because the constitutional power of the Governor under Article 161 is an independent constitutional power which is distinct from statutory remission under Section 433-A Cr.P.C. Completion of fourteen years of actual imprisonment is not an absolute pre-condition for exercise of constitutional clemency under Article 161. The authorities, therefore, misdirected themselves in law by importing considerations applicable to statutory remission into the exercise of constitutional power. He also submits that several similarly situated prisoners have been granted premature release in exercise of powers under Article 161 of the Constitution without completion of fourteen years of actual imprisonment. One such instance is that of Vishnu S/o Chaitu Ram, whose case demonstrates that the constitutional power

has in fact been exercised in deserving cases even before completion of fourteen years of incarceration. The petitioner, therefore, has been denied equal and fair consideration despite his case being supported by favourable recommendations of the competent authorities. He further stated that the petitioner has maintained satisfactory conduct during incarceration. The Superintendent of Jail, the Superintendent of Police and the District Magistrate have all recommended his case for grant of pardon. The petitioner has no criminal antecedents apart from the present case. At the time of the incident, he was about twenty-one years of age. During the pendency of his criminal appeal before this Hon'ble Court, he remained on bail and never misused the liberty granted to him.

9. Learned counsel for the petitioner further submitted that the petitioner is also facing compelling humanitarian circumstances. His father expired during the period of his incarceration. His sister has also passed away leaving behind minor children, whose responsibility has fallen upon the petitioner's family. The petitioner's wife is single-handedly maintaining the family, including the petitioner's aged mother, three children and the children of his deceased sister, resulting in severe financial and social hardship. These relevant humanitarian considerations have not received due consideration while deciding the petitioner's request for executive clemency. He also places reliance upon the judgment of the Hon'ble Supreme Court in ***State of Haryana & Others v. Rajkumar @ Bittu***, reported in **(2021) 9 SCC 292** to contend that the exercise of power relating to remission and premature

release must be fair, reasonable, non-arbitrary and in accordance with the governing policy and constitutional principles.

10. Reliance is also placed upon the decision of the Hon'ble Supreme Court in ***Epuru Sudhakar & Another v. Government of Andhra Pradesh***, reported in ***(2006) 8 SCC 161*** wherein the Hon'ble Supreme Court held that although the powers under Articles 72 and 161 of the Constitution are of the widest amplitude, they are not immune from judicial review. The Court held that an order granting or refusing clemency can be judicially reviewed where it is passed without application of mind, is arbitrary, mala fide, based on wholly irrelevant considerations, ignores relevant materials, or suffers from manifest unreasonableness. It is submitted that in the present case, the respondents have refused to consider the petitioner's request by adopting an erroneous interpretation of Rule 775 and by treating completion of fourteen years of imprisonment as a mandatory condition even while considering constitutional clemency under Article 161. The impugned decision, therefore, stands vitiated on account of non-application of mind, consideration of irrelevant factors and failure to consider relevant constitutional parameters, thereby warranting interference by this Hon'ble Court in exercise of its writ jurisdiction.

11. *Per contra*, learned State counsel submits that the present writ petition is wholly misconceived, devoid of merit and liable to be dismissed. It is submitted that the petitioner seeks judicial interference with an executive decision taken in exercise of the constitutional power

under Article 161 of the Constitution of India, despite there being no illegality, arbitrariness or procedural infirmity warranting interference by this Court. The petitioner was convicted for the offences punishable under Sections 302 and 148 of the IPC and sentenced to undergo imprisonment for life vide judgment dated 18.04.2001 passed by the learned 1<sup>st</sup> Additional Sessions Judge, Bilaspur in Sessions Trial No.91/2000. The conviction has attained finality upon dismissal of Criminal Appeal No. 388/2001 by this Court, followed by dismissal of Special Leave to Appeal (Criminal) No. 1294/2016 and Review Petition (Criminal) No. 608/2016 by the Hon'ble Supreme Court.

**12.** Learned State counsel further submits that the petitioner preferred a mercy petition under Article 161 of the Constitution of India, which was duly processed and rejected by the competent authority. The said decision was communicated to the petitioner vide communication dated 24.03.2023 (Annexure P/3). Thereafter, the petitioner's wife submitted an application seeking reconsideration of the said decision. Since Rule 775 of the Chhattisgarh Prisons Rules, 1968 does not provide for review or reconsideration of a rejected mercy petition, the respondents rightly declined the said request. It is submitted that the Rule contemplates only a fresh mercy petition, if otherwise maintainable, and not a review of an earlier decision. It is further submitted that the reliance placed by the petitioner on Section 57 of the IPC is misconceived, as the said provision neither converts a sentence of life imprisonment into one of twenty years nor creates any right to seek reconsideration after completion of ten years of imprisonment.

**13.** Learned State counsel further contended that the scope of judicial review over an order passed under Article 161 of the Constitution is extremely limited. The petitioner has failed to establish any mala fides, arbitrariness, non-application of mind or consideration of irrelevant material so as to warrant interference by this Court. It is submitted that a convict has no vested right to claim pardon or remission and this Court cannot sit in appeal over the decision of the constitutional authority.

**14.** It is further submitted by the learned State counsel that, pursuant to the order dated 07.04.2026 passed by this Court, the respondents have placed on record the relevant note-sheet as Annexure A/1, pertaining to the order dated 23.12.2022 passed by His Excellency the Governor and referred to in Annexure P/3. It is submitted that the note-sheet clearly reflects due application of mind. Although the Superintendent, Central Jail, Bilaspur, the Superintendent of Police and the District Magistrate had recommended the petitioner's premature release, the competent authority found that the petitioner had undergone only 9 years, 2 months and 25 days of actual imprisonment, whereas Section 433-A of the Cr.P.C. mandates completion of 14 years of actual imprisonment in the case of a life convict convicted of an offence punishable with death as one of the prescribed punishments. The note-sheet further records that the offence was intentional in nature and that the personal and financial hardships projected by the petitioner were not sufficient grounds for remission. Accordingly, the competent authority found the petitioner not entitled to premature release, while observing that the final decision under Article 161 vested with His

Excellency the Governor. The proposal also bears the approval of the Principal Secretary, Law Department.

**15.** It is, therefore, submitted that the impugned communication has been issued strictly in accordance with law and does not suffer from any jurisdictional error, illegality or procedural impropriety warranting interference under Article 226 of the Constitution of India. Accordingly, the writ petition deserves to be dismissed.

**16.** We have heard learned counsel for the parties and have carefully perused the pleadings and the material available on record.

**17.** The controversy involved in the present writ petition lies in a narrow compass. The petitioner has challenged the communication dated 09.07.2025 (Annexure P/1) whereby the respondents declined to entertain the application seeking reconsideration of the rejection of the mercy petition, as also the communication dated 24.03.2023 (Annexure P/3) whereby the decision rejecting the petitioner's mercy petition preferred under Article 161 of the Constitution of India was communicated. The petitioner has further sought a direction for grant of pardon under Article 161 or, in the alternative, for reconsideration of his mercy petition.

**18.** It is not in dispute that the petitioner was convicted for the offences punishable under Sections 302 and 148 of the IPC in Sessions Trial No. 91/2000 and sentenced to undergo imprisonment for life. The conviction attained finality after dismissal of Criminal Appeal No.388/2001 by this Court, followed by dismissal of Special Leave to

Appeal (Criminal) No. 1294/2016 and Review Petition (Criminal) No.608/2016 by the Hon'ble Supreme Court.

**19.** It is also not in dispute that the petitioner preferred a mercy petition under Article 161 of the Constitution of India, which was duly processed by the competent authorities and ultimately rejected. The said decision was communicated vide letter dated 24.03.2023 (Annexure P/3). Thereafter, the petitioner's wife submitted an application seeking reconsideration of the said decision, which came to be declined by the impugned communication dated 09.07.2025 (Annexure P/1).

**20.** The principal contention of the petitioner is that the application dated 31.07.2023 ought to have been treated as a fresh mercy petition in terms of Rule 775 of the Chhattisgarh Prisons Rules, 1968 and considered on merits. We are unable to accept the said submission. A plain reading of the application submitted by the petitioner's wife leaves no manner of doubt that what was sought was reconsideration of the earlier rejection of the mercy petition and not an independent or fresh mercy petition. Rule 775 does not confer any power upon the authorities to review or reconsider an order whereby a mercy petition has already been decided. In the absence of any enabling provision, the respondents cannot be faulted for declining to entertain such request.

**21.** Equally devoid of merit is the reliance placed by the petitioner on Section 57 of the IPC. The said provision creates a legal fiction only for the limited purpose of calculating fractions of punishment wherever

such calculation is required by law. It neither converts a sentence of imprisonment for life into one of twenty years nor creates any enforceable right in favour of a life convict to seek reconsideration of a rejected mercy petition after completion of ten years of imprisonment.

**22.** The submission that the mercy petition was rejected solely on the ground that the petitioner had not completed fourteen years of actual imprisonment also does not merit acceptance. Pursuant to the order dated 07.04.2026 passed by this Court, the respondents have placed on record the relevant note-sheet as Annexure A/1, which reflects the decision-making process. The note-sheet reveals that although favourable recommendations had been made by the Superintendent, Central Jail, Bilaspur, the Superintendent of Police and the District Magistrate, Bilaspur, the competent authority also considered the nature and gravity of the offence, the actual period of imprisonment undergone by the petitioner, the applicability of Section 433-A of the Cr.P.C. and the grounds urged by the petitioner in support of premature release. It was further noticed that no mitigating circumstance was found to justify exercise of the extraordinary constitutional power under Article 161. The decision, therefore, cannot be said to be based solely on the petitioner's non-completion of fourteen years of actual imprisonment.

**23.** The reliance placed by the petitioner on the decision of the Hon'ble Supreme Court in *Epuru Sudhakar* (supra) is also misplaced. In the said decision, the Hon'ble Supreme Court held that although the exercise of powers under Articles 72 and 161 of the Constitution is

amenable to judicial review, the scope of such review is limited to examining whether the decision is vitiated by mala fides, arbitrariness, non-application of mind, consideration of wholly irrelevant materials or exclusion of relevant considerations. In the present case, from the material placed on record, particularly Annexure A/1, it is evident that the competent authority considered all relevant aspects before arriving at its decision. The petitioner has failed to demonstrate that the decision-making process suffers from any of the infirmities recognised in the aforesaid judgment. Consequently, no case for interference in exercise of the writ jurisdiction of this Court is made out.

**24.** The reliance placed by the petitioner on *Rajkumar @ Bittu* (supra) is equally misconceived. The said decision was rendered in the context of remission and premature release under the applicable statutory policy. The present case, however, concerns rejection of a mercy petition under Article 161 of the Constitution and the maintainability of an application seeking reconsideration thereof. The issues involved being materially different, the said decision has no application to the facts of the present case.

**25.** In view of the aforesaid discussion, we are of the considered opinion that neither the communication dated 24.03.2023 (Annexure P/3) communicating rejection of the petitioner's mercy petition nor the communication dated 09.07.2025 (Annexure P/1) declining to entertain the request for reconsideration suffers from any illegality, arbitrariness, mala fides or procedural impropriety warranting interference by this

Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The relief sought by the petitioner for grant of pardon under Article 161 also cannot be granted by this Court, as the power of clemency is vested exclusively in the constitutional authority and this Court, in exercise of judicial review, cannot substitute its own decision for that of the competent authority.

**26.** Accordingly, the writ petition, being devoid of merit, is **dismissed**. However, it is observed that dismissal of the present petition shall not preclude the petitioner from availing such remedy as may be available to him in law, including submission of a fresh mercy petition under Article 161 of the Constitution of India or seeking remission/premature release, if otherwise permissible. In the event any such mercy petition or application for remission/premature release is preferred by the petitioner, the competent authority shall consider and decide the same on its own merits, in accordance with law, without being influenced by any observations made in the present petition.

**27.** No order as to costs.

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

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