



2026:DHC:2849



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 29th October, 2025

Pronounced on: 06th April 2026

+ **W.P. (CRL) No. 1336/2025, CRL.M.A. 12561/2025**

RAJAB ALI @ BABLOO

S/o Liyakat Ali

(Presently confined in CJ-02, Tihar, New Delhi)

....Petitioner

Through: Ms. Vrinda Bhandari, Ms. Vanshita Gupta, Ms. Shrutika Pandey and Ms. Ragini Nagpal, Advocates.

versus

1. **STATE (NCT OF DELHI)**

Through the Home Department

5th Level, C-Wing, Delhi Secretariat

New Delhi-110002

.....Respondent No. 1

2. **DIRECTOR GENERAL OF PRISONS**

CJ-02, Tihar, New Delhi-110064

....Respondent No. 2

Through: Mr. Sanjeev Bhandari, ASC with SI Seema, PS Gandhi Nagar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Writ Petition under Article 226 of the Constitution of India read with Section of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*), has been filed on behalf of the Petitioner, *Rajab Ali @ Babloo* for quashing of the *Minutes of the Meeting of Sentence Review Board dated 30.08.2024 and 19.09.2024*, duly approved by the



Hon'ble Lt. Governor, Delhi, *rejecting his premature release and **has further sought issuance of appropriate Writ for directing his premature release.***

2. The Petitioner has submitted that *FIR No. 216/2003 under Section 376 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), Police Station Gandhi Nagar*, was registered and the Petitioner was arrested on 26.01.2003 on the allegation of *allegedly raping a 3.5-year-old child*, on 21.01.2003. The Court of learned ASJ, Delhi *convicted him under Section 376 IPC on 21.12.2005* and sentenced him on 22.12.2005, to undergo Life Imprisonment and also imposed fine, under Section 376 IPC.

3. The *Criminal Appeal No. 58/2006* was dismissed by this Court on 22.01.2010 and the Order of Conviction and Sentence was upheld. To the knowledge of the Petitioner, *no SLP was ever preferred before the Hon'ble Supreme Court of India* and thus, the Order of conviction and sentence, attained finality.

4. The Petitioner has stated that he is in judicial custody since 26.01.2003 and has been in actual custody for **nearly 22 years, 06 months, 27 days**. The Petitioner is presently in *Semi-Open Jail, Central Jail No. 2, Tihar* and is working as a cleaner/sweeper/helper.

5. The case of the Petitioner was considered for the first time by the SRB for pre-mature release on 06.01.2016, in view of the fulfilment of the conditions for pre-mature release. However, *vide Minutes of Meeting dated 06.01.2016*, the SRB rejected the Petitioner's premature release *on the basis of nature and gravity of the offence and the threat to the family of the victim*, despite the recommendation of the Chief Probation Officer. This was



followed by *second rejection* by SRB *vide* its Minutes of Meeting dated 01.09.2016.

6. Thereafter, the Petitioner suffered ***third Rejection by*** on similar grounds as earlier rejections, and also by observing that there was opposition by the Police.

7. The Petitioner has submitted that he thereafter, suffered 06 other Rejections *vide* Minutes of Meeting dated 28.02.2020; 05.08.2020 and 06.08.2020; 11.12.2020; 25.06.2021; 21.10.2021 and 30.06.2023.

8. The Petitioner faced ***his 10th Rejection*** *vide* Minutes of Meeting of SRB dated 30.08.2024 and 18.09.2024; again, on the basis of heinousness and manner of crime, gravity and perversity of the crime, age of the convict and strong opposition by the Police authorities, etc.

9. The details of the rejection by SRB, are detailed as under:-

Sr. No.	Date of SRB Meeting	Actual Imprisonment	Imprisonment with Remission	Opposed By	SRB Recommendation	Grounds Relied on by SRB	Order by the Lt. Governor
1.	06.01.2016	12 years, 05 months and 19 days	15 years, 07 months and 04 days	(1) Ld. Addl. Sessions Judge (2) Delhi Police Recommended By: (1) Chief Probation Officer	Rejected (Serial No. 29)	(i) Nature and gravity of the offence; and (ii) He is threatening the family of victim	Rejected.
2.	01.09.2016	13 years, 04 months and 21 days	16 years, 10 months	(1) Delhi Police Recommended By: (i) Chief Probation Officer	Rejected (Serial No. 73)	(i) Nature of crime; and (ii) He has not lost his potential to commit such a crime	Rejected



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3.	06.09.2017	14 years, 04 months and 20 days	17 years, 11 months and 21 days	(1) Delhi Police Recommended By: (1) Chief Probation Officer	Rejected (Serial No. 83)	(i) Nature of crime; (ii) Circumstances in which crime was committed; and (iii) opposition by police	Rejected
4.	28.02.2020	17 years 02 months and 18 days	22 years, 01 month and 26 days	(1) Delhi Police (2) Director, Social Welfare Department Recommended By: (1) Social Welfare Department	Rejected (Serial No. 1045)	(i) facts and circumstances of the case as the convict (Petitioner herein) has committed rape upon 3 1/2 years minor girl child; (ii) Perversity of the crime; and (iii) Possibility of committing similar crime again.	Rejected
5.	05.08.2020 and 06.08.2020	17 years, 01 month and 28 days	22 years, 01 month and 13 days	(1) Delhi Police (2) Director, Social Welfare Department Recommended By: (1) Social Welfare Department	Rejected (Serial No. 58)	(i) Facts and circumstances of the case i.e., committing rape upon a 3 1/2 years minor girl child; and (ii) Perversity of the crime.	Rejected vide order dated 23.10.2020. (Serial No.109)
6.	11.12.2020	17 years, 08 months and 18 days	22 years, 07 months, 26 days	(1) Delhi Police (2) Director, Social Welfare Department Recommended By: (1) Social	Rejected (Serial No. 167)	(i) Facts and circumstances i.e., committing rape upon a 3 1/2 years minor girl child; (ii) Manner in which the offence was committed	Rejected vide order dated 05.03.2021



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				Welfare Department		(ii) the gravity and perversity of the crime; and (iii) Possibility of committing such crime	
7.	25.06.2021	18 years, 01 month and 18 days	23 years, 01 month, 11 days	(1) Delhi Police (2) Chief Probation Officer Recommend ed By: (1) Social Welfare Department	Rejected (Serial No. 166)	(i) Facts and circumstances i.e., committing rape upon a 3 ½ years minor girl child; (ii) Manner in which the offence was committed; (iii) Gravity and perversity of the crime; and (iv) Possibility of committing such crime	Rejected
8.	21.10.2021	19 years, 05 months and 28 days	24 years, 07 months, 12 days	(1) Delhi Police (2) Special Secretary cum Director, Social Welfare Department Recommend ed By: (1) Social Welfare Department	Rejected (Serial No. 150)	(i) Facts and circumstances i.e., committing rape upon a 3 ½ years minor girl child; ii) Manner in which the offence was committed; (iii) Gravity and perversity of the crime; and (iv) Possibility of committing such crime again	Rejected <i>vide</i> order dated 17.01.20 22 (Serial No. 131)
9.	30.06.2023	20 years, 11 months and 18 days	25 years, 01 month and 03 days	(1) Delhi Police (2) Social Welfare	Rejected (Serial No. 220)	(i) Facts and circumstances i.e., committing rape upon a 3 ½ years minor	Rejected <i>vide</i> order dated 21.11.20 23



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				Department		girl child; (ii) Manner in which the offence was committed; (iii) Gravity and perversity of the crime; and (iv) Possibility of committing such crime again.	(Serial No. 197)
10.	30.08.2024 and 18.09.2024	22 years 01 month and 18 days	27 years, 05 months & 20 days	(1) Delhi Police (2) Social Welfare Department	Rejected (Serial No. 183)	(i) Brutality of crime, i.e., committing rape upon a 3 ½ years minor girl child; (ii) Manner of heinous offence so committed (iii) Gravity and perversity of crime; (iv) Age of the convict; (v) Strongly opposed by Police authorities etc. (vi) Crime being desperate and shaking the confidence of the society; (vii) Release of convict not being in the interest of the society at large.	Rejected <i>vide</i> order dated 04.12.2024 (Serial No. 149)



10. Thus, the case of the Petitioner has been placed before Sentence Review Board (SRB) for 10 times from September 2007 till September 2024 and lastly, on 30.08.2024 and 19.09.2024. On every occasion, the case of the Petitioner has been duly considered and SRB but rejected keeping in view the gravity of the offence, minor age of the child, opposition of Police authorities and the larger interest of the society.

11. To explain his good conduct, the Petitioner has enumerated that was awarded on 21.06.2018, a *certificate of Yoga Training* conducted by the Panchvati Yogasharam and Nature Cure Centre at the Tihar Jail from 07.04.2018 to 21.06.2018.

12. The Jail Authorities *shifted the Petitioner to Semi-Open Jail at A-Block & B-Block, JTS quarters, Tihar vide Order dated 04.09.2017*, subject to furnishing of one surety of Rs.10,000/- along with his personal bond to the satisfaction of the Jail Superintendent. By the Order dated 16.10.2018, the Petitioner was transferred from Semi-Open Jail, Tihar to Semi-Open Jail, Mandoli. Thereafter, on 11.06.2019, the Petitioner was transferred to Open Prison at Tihar Jail.

13. The Petitioner in the interim, had been released on *emergency Parole* during the Covid-19 period, after which, he surrendered himself but was lodged in Regular Jail due to paucity of place in Semi-Open Jail. Thereafter, he was transferred *vide Transfer Parcha* dated 11.10.2023 to Semi-Open Jail.

14. The Petitioner has stated that he had been released on Parole thrice and on emergency Parole from 03.04.2020 to 29.05.2020, and thereafter



again, from 14.05.2021 to 12.08.2021. He has also been granted *Furlough 22 times*.

15. In addition, during his course of incarceration from 2006 to 2023, he assumed several positions of responsibility including but not limiting to carrying on welding work, at Langar, learning yoga, cleaning work, Tea serving duties, managing prison canteen. Further, while working in Semi-Open Jail in 2023, he worked at Tihar Haat. While he was on Emergency Parole during Covid-19 Pandemic, *he was gainfully employed as an e-rickshaw driver, before he surrendered on 06.04.2023.*

16. The Petitioner has ***sought the remission on the grounds*** that the SRB has erroneously applied Notification dated 16.07.2004 by placing reliance on *State of Haryana vs. Jagdish*, (2010) 4 SCC 216 wherein it was held that the Remission Policy existing on the date of conviction, shall apply. However, it has not been considered that in the Judgment of *Joseph vs. State of Kerala*, (2023) INSC 843, it has been made clear that when a more liberal Policy is in effect at the time of a 'lifer's' consideration for premature release, the Policy which is more beneficial to the individual, must be applied. The DPR, 2018 Rules, which had been notified, should have thus, been considered, to assess the case of the Petitioner, for pre-mature release. *The misapplication of law undermines the fairness and legality of the SRB's decision.*

17. Rule 1253 of Delhi Prison Rules, 2018 (DPR) states that all the convicted male prisoners not covered by Section 433A of the Code undergoing sentence of life imprisonment, would be entitled to be considered for premature release after they have served at least 14 years of



imprisonment inclusive of remission, but only after completion of 10 years of actual imprisonment, i.e. without remissions.

18. It is further submitted that perusal of Minutes of Meeting including the impugned Minutes, would divulge that relevant factors, including the conduct of the Petitioner inside and outside the prison, his socio-economic background and his family, has been routinely discounted. Such repeated rejections, without consideration of relevant facts, reflects a mechanical and perfunctory approach that undermines the very objective of the SRB's mandate.

19. The SRB has time and again, failed to give due weight to the Petitioner's exemplary conduct, while in incarceration. His participation in rehabilitation/training programs, Certificates of recognition as awarded to him, and his contributions to prison activities, has been consistently overlooked.

20. The fact that the Petitioner had been working in *Semi-Open Jail in 2019*, prior to his release on emergency parole during Covid-19 Pandemic and that he is presently also working in Semi-Open Jail, demonstrates, both *trust and reformative progress, a factor* which should have weighed in his favour, for his pre-mature release. The record of the Petitioner and his eligibility for Semi-Open Jail as per DPR, 2018, is compelling evidence that *he has demonstrated a significant reduction in his propensity to commit crime; has shown excellent conduct and has performed labour allotted to him with devotion and diligence, and has shown potential for rehabilitation.* The exemplary conduct of the Petitioner, in the Jail, is evidenced through



recommendation for pre-mature release by Chief Probation Officer and Social Welfare Department, on multiple occasions.

21. His adherence to legal and procedural requirements, such as surrendering upon completion of Interim Bail, Parole, and Furlough, underscores his commitment to lawful reintegration into the society.

22. The Petitioner has not only exhibited exemplary and reformed behavior within jail, but has also demonstrated strict adherence to law during his release on Interim Bail, Parole and Furlough. He has never indulged in any notorious activity. His conduct during the periods of release, outside the prison, reinforces his commitment to rehabilitation and lawful reintegration into the society. By ignoring such crucial aspects and merely reiterating a generalized assumption, the SRB has acted arbitrarily, rendering its decision unreasonable and unjust.

23. There is repetitive and flawed decision-making process of the SRB, wherein in each rejection, reliance has been placed on identical grounds i.e., facts and circumstances of the case, without fresh evaluation or meaningful application of judicial principles. The exercise has become routine and devoid of any substantive engagement with the Petitioner's evolving circumstances, thereby, rendering the entire process arbitrary and unfair. It is evident that the Petitioner's case has not been assessed on its merits; instead he has fallen victim to the mechanical and prejudicial approach, warranting judicial intervention to rectify this manifest injustice.

24. The SRB has significantly erred in stating that *"The Board felt that such a desperate crime shakes the confidence of society and recommending release may develop lack of faith of the general public in the legal system (at*



least in cases of rape convict).” This assertion is manifestly prejudicial, reeks of bias and reflects an improper reliance on public sentiment; rather than an objective assessment of the individual case or the factors, to be considered by SRB. The Board’s reasoning fails to consider the fundamental principles of rehabilitation, proportionality, and individualized justice.

25. The SRB has drawn an arbitrary distinction amongst life convicts, solely on the basis of nature of crime and has attempted to create a class of convicts merely by virtue of the offence committed, which amounts to impermissible classification and is constitutionally unsustainable.

26. The Petitioner has relied on Vijay Kumar Shukla vs. State of NCT of Delhi &Anr., 2024 SCC Online Del 7805 wherein while setting aside the remission rejection by the SRB’s Order for release of the Petitioner, *the indispensability of a speaking and reasoned order* as a third pillar of pre-mature justice, was upheld.

27. It is further submitted that the impugned Rejection by the SRB, is liable to be set-aside. **Firstly**, the discretion should have been based on relevant factors as laid down in DPR, 2018, which include the loss of propensity for committing the crime; possibility of reclaiming the convict as a useful member of the society and the socio-economic condition of the convict’s family.

28. **Secondly**, the pre-mature rejection could not be solely based on lack of recommendation by the Police.

29. Reliance is placed on Hari Singh vs. State (NCT of Delhi), 2023 SCC OnLine Del 7118 wherein it was held that a court shall be mindful of the gravity and nature of the offence committed by the Petitioner, however, that



cannot be the only factor to deny the benefit of premature release of the Petitioner. Furthermore, SRB's *mala fide* consideration of 'age of convict' for pre-mature release, is completely unreasoned and *dehors* any substantiation.

30. Reference is made to Satish @ Sabbe vs. The State of Uttar Pradesh, SLP (CRL.) No. 8326/2019 wherein while referring to Zahid Hussain vs. State of West Bengal, 2001(3) SCC 750, the Supreme Court of India, has held that *assessment regarding predilection to commit crime upon release, must be based on antecedents as well as conduct of the prisoner while in jail, and not merely on his age.*

31. On the ten occasions of consideration of the case of the Petitioner for remission, the SRB has relied on the Report of the Police Department that it has opposed the release of the Petitioner. However, such a consideration is irrelevant and extraneous as per Rule 1257(c) of DPR, 2018, which states that "*Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release.*"

32. Reliance has also placed on Kartik Subramaniam vs. Union of India & Anr., AIR OnLine 2021 DEL 76, which was in respect of a challenge against the decision of the Central Government, which did not concur with the recommendations of the SRB, on the point of pre-mature release, the Supreme Court of India, observed that "*it is implicit that the said consent cannot be arbitrarily or unreasonably withheld. It is well settled that all State actions must be informed by reasons and cannot be arbitrary. Considering that such decisions of the Central Government concern the right of life and liberty, it is imperative that such a decision also stand the*



test of reasonableness on the anvil of Article 14 of the Constitution of India.”

33. It is further asserted that the primary object in modern penology is reformation and correction and the objective of punishment, is to reform the Petitioner and to bring him back to the society; assist his reintegration and not to wreak vengeance because of his past conduct. The Petitioner’s case merits release, for which he has reliance on Wahid Ahmed vs. State of NCT of Delhi, 2022 SCC OnLine Del 2948 and Vijay Kumar Shukla (supra).

34. The conduct of the Petitioner inside the jail, has been recorded as satisfactory as on 18.08.2025. The Petitioner has undergone custody for 22 years, 06 months, 06 days without remission and 28 years, 08 months with remission. The grievance of the Petitioner regarding premature release does not hold merit in view of a repeated consideration by SRB and its rejection on valid grounds.

35. Hence, a prayer is made that the Order of the Hon’ble Lt. Governor dated 04.12.2024, approving the Minutes of the Meeting of SRB held on 30.08.2024 and 18.09.2024, be set-aside and the pre-mature release of the Petitioner, be directed.

36. ***The Petitioner in his Written Submissions, in addition to the reiteration of the contents of Petition***, has stated that the criterion and procedure for selection to be confined in *Semi-Open Prison is stipulated in Rule 1321 and 1323 of DPR*, and for *Open Prison in Rule 1325 and 1326 of DPR*. Among other criteria, only convicts who:

- (i) are found to be of good behavior, mentally fit and self-disciplined;



- (ii) have maintained excellent conduct inside Semi-Open Prison and have performed allotted labour with devotion and diligence
- (iii) are fit to be trusted for confinement in Open Jail, are considered for lodgment in Open Prison.

37. Since the Petitioner exhibited excellent conduct in Semi-Open Prison, the Jail Authorities found it appropriate to repose trust in the Petitioner to be kept in Open Prison. *It reflects that Petitioner's good character, discipline and devotion in discharging work allotted, is a testament of the fact that he is reformed and is fit to be reintegrated into the society.* Considering his usefulness inside Semi-Open Prison and good character, he has become harmless and is now eligible to be reclaimed as a useful member of the society in terms of Rule 1244 and 1251 of DPR.

38. Further, in gross violation of the rules, the petitioner's case was summarily rejected by SRB, simply on the grounds:

- (i) *manner of heinous crime so committed;*
- (ii) *gravity and perversity of the crime;*
- (iii) *age of convict;*
- (iv) *strong opposition by the Police authorities, etc.*

39. Reference was made to Sushil Kumar vs. State, W.P. (Crl.) No. 3798/2018 wherein the Division Bench of this Court held that the SRB must exercise its discretion in a just and reasonable manner after due and proper consideration of all the relevant material.

40. The perusal of the impugned Minutes shows the multiple factors pertaining to the Petitioner which are completely discounted by the SRB. These are:



- (i) *his residence in Semi-Open Prison since 2017 and the recommendation to Open Prison in 2019;*
- (ii) *his sterling and satisfactory conduct in prison, including his multiple release on Parole;*
- (iii) *significant reduction of propensity to commit crime as there is no finding of misconduct in last 28 years of incarceration;*
- (iv) *his family socio-economic background as his parents are dead and he is the eldest of four siblings who has to support his younger brothers who has a mental disability, and he himself is suffering from various health problems; and*
- (v) *his usefulness to the society especially considering his temporary employment as an e-rickshaw driver when released temporarily from Prison and including and also various positions of responsibility inside the Prison, such as, welding work, langar work, cleaning, tea services, management of prison canteen, etc.*

41. The impugned Minutes have placed overemphasis on the nature of crime, without consideration of other relevant factors.

42. Reliance is also placed on Satish @ Sabbe vs. State of Uttar Pradesh, SLP (Cr/) No. 7369/2019 and Shor vs. State of Uttar Pradesh and Anr., (2021) 14 SCC 820 wherein the Court directed the release of the Petitioner noting that the Remission Board in the impugned Orders had taken a myopic view of focusing mainly on the nature of crime, without considering the post-conviction conduct of the life convicts. It was observed that assessment by SRB regarding predilection to commit crime, cannot be based merely on the age of the convict and is bad in law.



43. The SRB has failed to consider the penological goal of punishment and reformation and rehabilitation being the cornerstone of a criminal justice system rather than retribution for which reliance is placed on Joseph vs. State of Kerala and Others, W.P. (Crl.) No. 520/2022.

44. The Supreme Court in Rajo vs. State of Bihar, 2023 SCC OnLine SC 1068 reiterated that the aim and ultimate goal of imprisonment is even in the most serious crime is reformatory, after the offender undergoes a significantly long spell of punishment through imprisonment. While the nature of the offence and its societal impact are relevant considerations for the SRB, the same cannot be the sole basis for continued incarceration. The continued incarceration of the Petitioner herein on the basis of nature of crime committed by him, defeats the entire substratum of reformatory theories, tightens the noose and poses a threat of overlooking the reformatory potential of the Petitioner.

45. The Petitioner has placed reliance on Vijay Kumar Shukla vs. NCT of Delhi, 2024 SCC OnLine Del 7805, Wahid Ahmed vs. State of NCT of Delhi and Ors., 2022 SCC OnLine Del 2948, Sushil Sharma (supra) Division Bench and on Zafar Ul Islam vs. State of NCT of Delhi, W.P. (Crl.) No. 2518/2022 wherein the premature release of the Petitioner has been allowed by the Court in exercise of power under Article 226 Constitution of India.

46. These judgments also emphasized that the role of SRB is especially important for the SRB meetings are not being conducted regularly and the convicts continue to languish in jail despite being eligible for consideration for premature release. Notably, the Social Welfare Department after analyzing the history of the Petitioner, his behavior during custody and



overall conduct, had recommended premature release of the Petitioner. The Police Department, however, mechanically opposed the same without any assigning any reason.

47. Relying on Notification dated 16.07.2004 issued by Respondent No. 1 and Letter dated 26.09.2003 issued by National Human Rights Commission, it is submitted that eligibility criteria for consideration of premature release enures soon after completion of 10 years of actual imprisonment. The Petitioner had completed 10 years in the year 2013 since when he became eligible for premature release. However, for the reasons best known to SRB his case was considered for the first time only in 2015-16 and onwards. It is therefore, submitted that the Petitioner may be granted premature release from the Prison forthwith.

48. The ***State/Respondent No.1 in its Written Submissions*** has explained that the SLP filed by the Petitioner against his dismissal of his Appeal by the Division Bench of this Court, also met the same fate and was dismissed.

49. Reliance has been placed on Union of India vs. V Sriharan @ Murugan & Ors., (2016) 87 SCC 1 wherein it has been held that the Court may review Executive orders on remission only in cases of blatant illegality or constitutional violations. The Court's role is limited to directing the consideration of remission claims, without the authority to grant remission or order premature release. The appropriate Government retains the discretion to consider and grant remission under Section 432 and 433 Cr.P.C.

50. Reliance has further been placed on Ram Chander vs. State of Chhattisgarh & Anr., (2022) 12 SCC 52, Laxman Nascar vs. State of West



Bengal and Anr., (2000) 7 SCC 626, Shashi Shekhar @ Neeraj vs. State of NCT of Delhi, W.P. (Crl.) 1311 of 2016, Hari Singh vs. State of NCT of Delhi, 2023 SCC OnLine Del 7118, Gurvinder Singh vs. State of NCT of Delhi, W.P. (Crl.) 590 of 2024, Vijay Kumar Shukla vs. State of NCT of Delhi, W.P. (Crl.) 1485 of 2024, Vikram Yadav vs. State Govt. Of the NCT of Delhi, W.P. (Crl.) 3249 of 2024 and Santosh Kumar Singh vs. State (Govt of NCT) of Delhi, W.P. (Crl.) 1431 of 2023 in support of its contentions.

51. Counter Affidavit has been filed on behalf of Respondent No.2, wherein it is stated that the Sentence Review Board had rejected the case of the Petitioner for premature release in the Impugned Minutes, *keeping in view the gravity of the offence, the minor age of the victim, the opposition of the Police Authorities, and the larger interest of society.*

52. It is stated that the conduct of the Petitioner inside jail *has been recorded as “satisfactory”*. The grievance of the Petitioner regarding premature release does not hold merit in view of the repeated consideration of his case by the SRB and its rejection on valid grounds. *Therefore, it is prayed that the present Writ Petition be dismissed, as being devoid of any merits.*

Submissions heard and record perused.

53. The entire Remission Policy is based on reformatory theory and it provides clearly that if there are circumstances which reflect that the convict is a reformed man and ready to intermingle in the society, he must be given a chance by his premature release.

54. In Narottam Singh vs. State of Punjab, (1979) 4 SCC 505, the Apex Court stated that *reformatory approach to punishment* should be the



objective of criminal jurisprudence aiming to foster rehabilitation without affronting the conscience of the community and ensuring social justice. The objective of punishment is not to seek vengeance for what is done, cannot be undone but it is for the sake of reformation and rehabilitation.

55. Likewise, in State of Haryana vs. Jagdish, (2010) 4 SCC 213, the Supreme Court underscored the foundational principles of criminal jurisprudence as centering around human dignity, rehabilitation and reformatory approach to punishment. It was emphasized that while justice necessitates that the guilty be held accountable, punishment must be tempered by a humane and socially constructive outlook. *The objective of punishment should focus on reformation and reintegration ensuring that clemency and remission policies align with modern penological theories that view punishment not as retributive, but as a means to foster rehabilitation and prevent recidivism, taking into account the convict's potential for reintegration and the circumstances surrounding their offence.*

56. The Remission Policy, 2004 was the first formulation of remission. Its genesis lies in the guidelines issued by the National Human Rights Commission (NHRC) in its Letter dated 08.11.1999 to ensure uniformity in the matter of remission of the convicts wherein transparency, uniformity, and procedural fairness in grant of remission was recommended to ensure that prisoners do not become black holes of arbitrary detention. The guidelines were therefore, forwarded to the States and Union Territories to review their existing practice and procedure governing premature release of life convicts and to bring conformity with the guidelines issued by the



Commission. This was followed by another Letter dated 26.09.2003, whereby the revised guidelines were recommended by the NHRC.

57. Thereafter, *Ministry of Home Affairs introduced Model Prison Manual for the Superintendent and management of prisons in India in 2003*, to harmonize State level Rules and International Human Rights standards. ***Remission Policy, 2004*** was thus, formulated to provide a structured rule-based system for the functioning of Sentence Review Board (SRB). It was intended as guidance for exercise of discretion and aimed at clinical assessment of whether the convict had lost their propensity to commit crime and to avoid whimsical executive action.

58. It established that the primary threshold for release was 14 years of actual imprisonment for standard life sentence and a minimum of 25 years (including remission), even for the most heinous category of crime. The Apex Court in the case of *Jagdish* (supra) emphasized that the power of remission, must be applied literally in favour of the convict, depending upon the facts and the facts of each case with reference to the applicable Policy.

59. ***The Remission Policy, 2004 was replaced by enactment of Delhi Prison Rules, 2018 (DPR 2018)***, wherein the principles of Policy, 2004 served as a blueprint for the *Chapter XX of DPR dealing with remission policy*. The constitution of Sentence Review Board **was specified to** comprise of the Ministry of Home, Chairman, Principal Judge Family, Principal Judge, Principal Secretary Law and Justice, DGP and Chief Probation Officers.

60. The conviction of the Petitioner being of the year 2005, which was upheld in 2010; thereby the Remission Policy, 2004 is applicable in terms of



the judgments of *Jagdish* (supra) However, in *Joseph* (supra) the Apex Court clarified that though it is the Policy which was prevailing at the time of conviction, shall be applicable in the present case, but in case a more liberal Policy exists on the day of consideration, then the latter would apply. *Therefore, the Remission Policy 2004 becomes applicable, but the beneficial provisions of DPR 2018, are also to be considered.*

Whether SRB Meetings considered the Relevant Factors for Remission:

61. The Petitioner was convicted and sentenced *vide* Judgment dated 22.12.2005. The Criminal Appeal filed before this Court was dismissed by the Division Bench on 22.01.2010 and the SLP filed in the Supreme Court also met the same fate.

62. As Justice V.R. Krishna Iyer noted, “*every sane has a past, every sinner has a future*”, it applies squarely to the Petitioner who in the past had committed an offence of rape of a 3.5 years old child, when he was 22 years old, but what needs to be looked his future; his conduct thereafter in the Jail which is reflective of a complete transformation and his willingness to be a changed person. The big question is whether his past would be his nemesis for his entire future life or whether there is any ray of redemption.

63. According to the Remission Policy, 2004 the Petitioner was convicted in the year 2004 and therefore, became eligible for consideration of remission in the year 2013. However, he was considered for remission for the first time *vide* SRB Minutes dated 06.01.2016 wherein the remission was denied *on the grounds that the Police opposed it and stated that there was a threat to the victims of family of the victim, even though Probation Officer recommended his release.* It was noted that the *learned Additional Session*



*Judge opposed the premature release in view of nature and gravity of the offence. **Police also opposed premature release** of the convict in his Report as well as in the Meeting, in view of law and order problem and that he was threatening the family of victim. The Chief Probation Officer recommended premature release. The Sentence Review Board took into account the overall facts of the case, heinous nature of the crime, non-recommendation by the Police and **rejected his premature release.***

64. This was followed by SRB Meeting held on 01.09.2016, wherein a similar negative Report was given by Delhi Police. It was similarly noted that the Chief Probation Officer recommended the premature release of the convict, but the Members of the Board were not convinced for this premature release in view of nature of the crime and that he had yet not lost his potential to commit the crime. The fate of the Petitioner remained the same in the subsequent SRB meetings held on seven occasions between 06.09.2017 till 30.06.2023.

65. Pertinently, the tone and tenor in all the Minutes of the Meetings of the 10 SRB Meetings, was essentially the nature of the crime committed by him and the circumstances in which the crime was committed, and that the Police had opposed his premature release over a period of time since 2016. The reasons for rejecting the remission remained practically the same, only change being in the number of years of incarceration and the number of Paroles and Furloughs enjoyed by the Petitioner.

66. The record shows that a Social Welfare Board had given initially positive reports in the year 2016 and it was only the Delhi Police, which had been giving the negative report. In September 2016, the Minutes reflected



that the **Home Town Police had also given a positive report**, but interestingly, while there were practically no circumstances adverse to the release of the remission, were being reflected in the social reports, there was an institutional adamancy in denying the remission solely on the ground of heinousness and gravity of the offence.

67. The *Remission Policy, 2004 as well as Delhi Prison Rules, 2018* has referred to the gravity or heinousness of a crime as a necessary precondition, only to provide the qualifying years of at least 14 years of imprisonment inclusive of remission, but only after completion of 10 years of actual imprisonment, respectively for the heinous and grave heinous crimes.

68. If the *gravity of the offence* was the only criterion for considering the remission, then it would have been so stated as a ground in the scheme of remission. It would have then qualified that there can be no remission for certain category of offences which are considered as “*heinous and grave*”. However, as is evident from the Remission Policy of 2004 and DRP 2018, the remission has been permitted in the most heinous crimes, but after a period of 10 years of actual imprisonment. Therefore, it is evident from the Remission Policy that gravity or heinousness of crime is to be weighed against the reformation and the readiness of the Petitioner to integrate in the society, while considering his case for remission. ***The repeated rejection on the ground of heinousness or gravity, is completely misplaced and against the principles formulated in the remission policy.***

69. The DPR, 2018 in its Rule 1257 provided in detail, the procedure and the documents/Reports which shall be followed/considered by the SRB. It



provided that the Notice for the meeting of SRB shall be accompanied with a complete Agenda Papers, i.e., *Note of Superintendent of Jail, recommendation of DCP/Superintendent of Police, Chief Probation Officer and IGP* along with the copies of the documents.

70. It streamlined that while considering the remission of an Accused, the reports, i.e., ***Reports of Jail Superintendent, Department of Social Welfare, Probation Officer, local Police as well as of the Home Town Police are relevant for determining whether a convict is entitled to remission.*** In this backdrop, the rejection of the remission by the Respondent, may be considered.

71. The case of the Petitioner be thus, tested on these circumstances: the report of the **Probation Officer was positive** and it recommended the premature release of the Petitioner. Pertinently, **Social Investigation Report dated 25.06.2024**, copy of which has been annexed on record, **reflected the conduct of the Petitioner to be satisfactory and was reported to have neurological health problem.** *His socio-economic background* reflects that his parents are dead and he has got four brothers out of whom, one is mentally disabled. Not only this, when he was released on Furlough or Emergency Parole during COVID-19, he was gainfully employed as an e-rickshaw driver.

72. The other significant aspect is his **Jail conduct**- The jail conduct as well as overall conduct is reported to be satisfactory. From ***the Nominal Roll*** as well, it is evident that the conduct of the Petitioner in the Jail was not only satisfactory, but in fact, earned many commendations.



73. An extremely significant factor to explain the conduct of the petitioner is that he had been shifted to Semi-Open Jail, Tihar, vide Order dated 04.09.2017 and also recommended to be shifted to Open jail.

74. The objective factors are quite well ensconced in the eligibility conditions of a convict being in a Semi-Open Prison and even most stringent requirements to qualify for an Open Prison. Rules 1321 and 1323 of DPR 2018 provides guidelines for shifting a person to **Semi-Open Prison** which reads as under:

“1321. Criteria for selection

(i) The following convicted prisoners may be selected for confinement in semi open prison who—

a) are sentenced for 3 years and have served minimum 1 year of actual sentence as convict from the date of his conviction excluding remission in closed prison or

.....

e) are sentenced for a term more than 14 years or life sentence, where as per the chapter of premature release the case is referred after twenty years including remission, and the convict have undergone 7 (Seven) years of the actual as convict from the date of his conviction excluding remission in closed prison.

Provided that all the above categories of convict must have served, including under trial period, at least 2/3 of his total punishment awarded including remission.

(ii) Have maintained excellent conduct inside the prison during the period of his sentence and has performed labour if allotted to him with due devotion and diligence there should not be any punishment for any offence against such convict at least for last three years from the date of eligibility.



- (iii) Nothing adverse should have been noticed during his temporary release from the prison on parole/furlough, if eligible/availed and
- (iv) Have no appeal/other pending cases against him in any court either in Delhi or in India.

...

1323. Procedure for selection

(i) Superintendents of Prisons shall prepare a list of prisoners eligible as per selection criteria and who are willing to be confined in semi open Prison.

(ii) ...

(iii) ...

(iv) The case of each prisoner shall be screened, keeping in view of the following factors, namely:—

(a) Health, physical and mental, to withstand confinement in semi-open prison and certificate in this regard that he is fit to work.

(b) Behavior and conduct in prison and sense of responsibility displayed.

(c) Progress in work, vocational training, education and in other like matters.

(d) Group adjustability.

(e) Character and self discipline.

(f) Extent of institutional impacts (whether has reached peak point of training and treatment).

(g) Whether he is fit for being trusted for confinement in semi-open prison.

(v).....

(vi)....

(vii) ... ”

75. Rules 1325 and 1326 of DPR 2018 provides some circumstances wherein an inmate can be **shifted to Open Jail**, which reads as under:-



“1325. Criteria for selection

I. The following convicted prisoners may be selected for confinement in Open prison who—

a) are found to be of good behavior and are physically and mentally fit.

b) have maintained excellent conduct inside the semi-open prison and have performed labour allotted to them with due devotion and diligence and

i. the convict who have been sentenced for more than 3 years and upto 5 years and have completed six months in Semi-open

Jail.

ii. the convict who have been sentenced for more than 5 years and **have completed one year in Semi-open Jail.**

Provided that the convict must have served, including under trial period, at least 3/4 of his total punishment awarded including remission.

(c) Having good character and maintaining self discipline.

(d) Have strong group adjustability and sense of responsibility.

1326. Procedure for selection

(i) Superintendent of Semi-open prison shall prepare a list of prisoners falling under rule 1325 and who are willing to be confined in Open Prison.

(ii)

(iii)

(iv) The case of each prisoner shall be screened, keeping in view of the following factors, namely:—

a. Health, physical and mental, to withstand confinement in Open prison and certificate in this regard that he is fit to work.

b. Behavior and conduct in Semi open prison and sense of responsibility displayed.

c. Progress in work, vocational training, education and in other like matters.

d. Group adjustability.



e. Character and self discipline.

f. Whether he is fit for being trusted for confinement in Open prison.

g. Any other factor which may be considered just and proper.

(v).....”

76. From the aforesaid Rules, the criteria for transfer to the Semi-Open Jail includes the *group adjustability, character, self discipline, behavior, conduct and sense of responsibility displayed by the convict in the Jail* which should be considered to decide if he was fit to be trusted for confinement in Semi-Open Jail.

77. Likewise, *for being shifted to Open Jail, the criteria involves good behavior, excellent conduct inside the Semi-Open Prison and performance of all the labour allotted to him with due devotion and diligence, have good character and maintains self discipline and have strong group adjustability and sense of responsibility.*

78. The Petitioner was admittedly shifted to Semi-Open Jail on 04.09.2017. Because of his excellent conduct in the Semi-Open Jail and completion of work allotted to him with due diligence and devotion, *he was directed to be lodged in Open Prison, on 11.06.2019*, though he could not be shifted as he was unable to garner the requisite funds to arrange a Surety or personal bond.

79. The Petitioner being in Semi-Open Jail since 04.09.2017, clearly spells the completely reformed conduct of the Petitioner who has displayed good character, devotion and diligence in discharge of his duties and has maintained self discipline. There could not have been better evidence of he being fully reformed in his character and disposition.



80. While in the Semi-Open Jail, he was working as Cleaner/ Sweeper/ Help and earned some recommendatory certificates for his work and also participated in the activities like Yoga Camp, etc. for which he was issued the certificates.

81. The Nominal Roll shows that he had availed Furlough 19 times and Parole for 04 occasions, and at no point of time had he violated the terms or not surrendered in time.

82. ***This overwhelming record is a testament to the petitioner having reformed himself and is ready to be integrated in the society,*** as had been observed by the Apex Court in the case of Joseph (supra).

83. The aforesaid discussion reflects that the SRB had been considering only the report of the local Police and the gravity of the crime to consistently reject the remission. **There is nothing to show that the Social Investigation Report, State Welfare Report, Officer's Report, Home Town Report or Jail Superintendent's Report was adverse, in any manner.**

Whether Propensity to commit offence is Lost:

84. The Nominal Roll of the Petitioner reflects that as on 21.07.2025, he had suffered 22 years, 05 months and 10 days of actual incarceration and has earned a remission for 06 years, 03 months and 18 days. The Petitioner, therefore, had suffered incarceration of about 28 years including the remission.

85. The Petitioner had availed 19 Furloughs and 04 Paroles, which further reflect that he had maintained an unblemished record during the entire period of temporary freedom. Having spent 22 years of actual



incarceration and 28 years of incarceration including remission with no adverse comment, coupled with the Petitioner being shifted to Semi-Open and Open Jail, clearly reflects that *there is nil propensity to commit the offence* and he is a totally reformed person, who is fit to go back to the society.

86. The Supreme Court in the case of Satish @ Sabbe (supra) and in the case of Joseph v. State of Kerala (supra), the Supreme Court taking in the similar facts as hereunder, noted that the Petitioner was a hard-working, disciplined and a reformed inmate and thus, directed the release of the Petitioner with immediate effect.

87. The Supreme Court in Joseph (supra) highlighted, “*typecasting convicts through guidelines which are too flexible, based on their crime committed in distant past, results in a danger of overlooking the reformatory potential of each individual. They may have killed someone as young individuals and remained incarcerated for 20 or more years regardless of the morality of the continued punishment, one may question its rationality. The question is what is achieved by continue to punish a person who recognizes the wrongness for what they had done, who no longer identifies with it and who bears little resemblance to the person they were years earlier. It is tempting to say that they are no longer the same person, yet the insistence of guidelines, obdurately to not look beyond the red lines drawn by it and continue in denial to consider the real impact of prison good behavior, and other relevant factors to ensure that such individual has been rid of the likelihood of causing harm to society, results in violation of Article 14 of the Constitution. Excluding the relief of premature release to prisoners*



who observe extremely long periods of incarceration not only crushes their spirit and instills despair but signifies society's resolve to be harsh and unforgiving. The idea of rewarding a prisoner for good conduct is entirely negated."

88. These factors have been duly met in the present case and the conduct of the Petitioner had continued to be good, which was the most crucial factor, which ought to have weighed in his assessment for a premature release.

89. From the bare perusal of the impugned Minutes of SRB, it is evident that none of these aspects have been considered or *ex facie* ascertained. The impugned Order bears only the gravity and perversity of the crime; the strong opposition by the Police and the public sentiment, are the only factors which weighed with SRB while rejecting the remission.

Whether the Order of SRB are reasoned:

90. Before concluding, it is pertinent to also emphasize ***that a reasoned order or a speaking order is considered as a third pillar of natural justice.*** The *first one* being no one should be a judge of their own cause and *second* being the right to be heard.

91. In the present case, the Orders of the SRB are almost copy-paste and evidently, these Orders have been passed more as a formality, rather than following the principles of natural justice. They cannot qualify as *reasoned orders, demonstrating transparency and fairness in a decision-making process.* It is not the brevity of an Order, but it being devoid of reason, which is fatal. The complete opacity is reflected in the Orders, which are cryptic and the principles relevant for considering the remission of an inmate, are



visible in the SRB Order. Unfortunately, there is no clarity or logic or reason, in the consistent rejection of the case of the Petitioner in the SRB Meetings.

92. It is also pertinent to observe that in all the SRB Meetings, more than 100 cases have been considered and decided. It is difficult to comprehend how such number of cases can be considered in one Meeting, in a meaningful manner. The way the SRB Meetings are being held, reflect a total disregard not only to the factors relevant for consideration of the remission, but also an indifference to the inmate who for the Authority, is nothing but one name in the multitude of cases considered in a Meeting by SRB. The man, the life and his existence as a human being, remains totally invisible, in this undemocratic functioning of Govt machinery.

Whether the remission be granted by this Court:

93. In the end, this court is confronted with the contention of the Respondent that to grant or refuse the Remission, is an Executive function, and the Courts must not trespass into the Executive domain.

94. The Petitioner has undergone 22 years 05 months 10 days of actual incarceration and over 28 years 08 months 28 days including remission. His continued detention despite fulfilling all the criteria and reflecting his complete reformation and loss of propensity to commit crime and fulfilling all the criteria laid down in the Remission Policy, 2004 as well as the Delhi Prison Rules, 2018 and denying him consistently the benefit of remission, directly impacts his *Right to Life* and *Personal Liberty* under Article 21. Where the State action threatens the fundamental guarantee of liberty, the Courts are well empowered in exercise of their power of judicial review to intervene.



95. The observations in the case of *Whirlpool Corporation vs. Registrar of Trade Marks 1998 (8) SCC 1*, is pivotal to overcome the States' common objection regarding the maintainability of a Writ Petition, when an alternate remedy exists. The Supreme Court clarified that mere existence of alternate remedy, does not act as an absolute bar to the jurisdiction of the High Court under Article 226 Constitution of India. The four principles meriting judicial intervention by way of Review, were stated, which are :

- (i) *Where the Writ Petition has been filed for enforcement of fundamental right;*
- (ii) *Where there is violation of principles of natural justice;*
- (iii) *Where the Order of proceedings are wholly without justification; and*
- (iv) *the violation of the Act is challenged.*

96. From the aforesaid discussion, it emerges that despite qualifying all the parameters laid down in the Executive Remission Policy, 2004 as well as DRP, 2018 there is an obstinacy on the part of the State to not exercise their jurisdiction judiciously on the stated principles, in the light of the defined parameters.

97. From the above discussion, it has emerged that the Petitioner has been in the Semi-Open Jail since 2017 and was also recommended to Open Jail in 2019 and there can be no better proof of his being certified by the Executive Authorities themselves, as a person who is fit to intermingle in the Society.

98. It has also emerged that while he was on emergency Temporary Bail during the Covid period or has been otherwise out of Jail, he had been gainfully employed and had not show any tendency of commission of



offence again. The fundamental principle of there being a gross violation of the fundamental right of the Petitioner, is firmly established.

99. It has also been noted that fundamental principles of natural justice, is to give a reasoned Order. As already discussed, none of the Orders have any reason except a cyclostyled format of denying the Remission barely on the ground of the gravity of the offence. These Orders do not reflect that there was any consideration of the requisite parameters and therefore, are violative of principles of natural justice. It can be safely held that all these proceedings have been conducted, beyond their defined jurisdiction. *The circumstances, therefore, justify intervention of the Court in exercise of its jurisdiction of Judicial Review.*

100. This principle has found its validation in the Judgment of the Supreme Court in Bilkis Yakub Rasool vs. Union of India (2023) 10 SCC 494, wherein while relying on Swami Shradhanand vs. State of Karnataka (20008) 133 SCC 767, it was observed that the decisions must not be taken mechanically or in abstraction, but through objective assessment of all facts including the likely impact on the family of victim and the social fabric and the precedent which it sets for the future. ***It was held*** that the exercise or non-exercise of power of pardon or remission is subject to judicial review and a pardon obtained by fraud or granted by mistake or granted for improper reasons would invite Judicial Review and the vindication of the rule of law being the knowing objective of Judicial Review, the mechanism for giving effect to that justification varies. Thus, Rule of Law should be over-arching constitutional justification for Judicial Review.



101. In two of the decisions of the Coordinate Bench of this Court i.e. in *Sushil Sharma and Vijay Kumar Shukla*, in the similar situations Remission in the Writ Petitions so filed on behalf of the Convicts, was allowed.

102. This aspect may also be considered from another perspective, i.e. there are *only two outcomes in a given situation*; either the person is to be released or it has to be denied. It has been considered in detail that all the criteria of the Remission Policy have been completely met by the Petitioner.

103. Having concluded that there is no reason whatsoever for the Executive to deny him the benefit of Remission Policy, remitting the Petitioner back to the same Executive Body, that has repeatedly failed to apply the governing Policy would be an exercise in futility. Once it is concluded that the Petitioner is entitled to remission, nothing more needs to be done for which the matter may be remanded to the Respondent. This would be nothing but an exercise in superfluity, which definitely this Court is not inclined to do.

Conclusion:

104. Therefore, it is concluded that the Minutes of the SRB dated 30.08.2024 and the subsequent approval of the SRB Minutes of the Meeting dated 19.09.2024 are arbitrary, irrational and contrary to the Remission Policy, 2004 and DRP Rules, 2018. Therefore, the Petitioner having served nearly 28 years of incarceration including remission and meeting all the requisite parameters to establish his loss of propensity to commit crime and to integrate in the Society. **Balancing the individual and societal welfare, it is a fit case where the petitioner is held entitled to Remission and is directed to be released forthwith.**



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- 105.** The copy of the Order be sent to the jail Superintendent, to release the Petitioner forthwith, if not required in any other proceedings.
- 106.** The Petition is hereby, **allowed**. Pending Applications are disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 06, 2026/RS/N/VA