

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (DB) No.620 of 2024**

Arising out of PS. Case No.-310 Year-2009 Thana- BAHADURPUR District- Darbhanga

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Jagarnath Thakur

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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**Appearance :**

For the Appellant : Mr. Rohit Kumar, Advocate  
Mr. Manish Kumar No. 13, Advocate  
Mrs. Nitu Kumari, Advocate  
For the Respondent : Mr. P.K. Shahi, Advocate General  
Mr. Vikas Kumar, AC to AG  
Mr. Ajay Mishra, A.P.P.

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE HARISH KUMAR**

ORAL ORDER

**(Per: HONOURABLE THE CHIEF JUSTICE)**

20 04-05-2026 As per order dated 16.04.2026, Mr. Arvind Chaudhary, Additional Home Secretary, Government of Bihar and Mr. Pranav, Inspector General (Prisons), Bihar have appeared through virtual mode.

2. On 16.04.2026, we had passed the following order:

*“4. From the submission made, it is*



*not clear whether the application of the appellant, which was filed before the Board was rejected or it was deferred for consideration after 28.10.2029.*

*Let the learned State counsel obtain specific instruction in that respect.*

*5. XXX XXX XXX”*

*6. The learned counsel for the State shall examine whether in the Premature Release Policy or Rule formulated by the State Government, there is any provision for consideration of the case of such persons, who are physically unfit and suffering from various ailments and aged person, prior to the completion of actual period of detention of twenty years with remission.*

*7. The learned State counsel shall also apprise this Court on the next date as to how many cases of different convicts are pending for consideration for premature release before the Board; the date of application in such cases and the status of these applications and the period, if any, stipulated in the scheme of premature release or Rule for consideration of such application and any reason for delayed disposal of such application. The relevant policies/rules shall also be placed on the next date. The Inspector General (Prisons), Bihar shall appear virtually along with Home Secretary, Government of Bihar to answer our queries.*

*8. XXX XXX XXX*

*9. A detailed affidavit regarding pendency of the applications for premature release, as noted above, shall be filed in the meantime, which would be duly sworn by a responsible officer of the State.”*



3. In pursuance of the order of this Court, two supplementary counter affidavits have been filed on behalf of the respondent State. The first affidavit has been filed by one Rajiv Kumar, A.I.G., Prisons and Correctional Department (Home), wherein, it is stated as follows:

*“4. That it is submitted that there is no clear mention in the Bihar Prison Manual 2012 and Home (Special) Department Notification No. 3106 dated 10/12/2002 for considering the pre-mature release of physically unfit and hospitalized life convict but eligibility for pre-mature release on the ground of his provided in Rule 483 to Rule 486 of Bihar Jail Manual 2012 and Clause (iii) (e) of Home (Special) Department Notification No.3106 dated 10/12/2002.”*

4. In another supplementary counter affidavit, duly sworn by Rajiv Kumar, A.I.G. (R) Prisons and Correctional Services, Bihar, Patna, it is stated as follows:

*“6. That it is stated that as to the query, "whether proposal of petitioner for his pre-mature release was deferred or rejected by Bihar State Sentence Remission Board in its earlier meeting," it is humbly submitted that by virtue of Rule 481 of Bihar Prison Manual, the proposal of petitioner for his pre-mature release was deferred by Remission Board in its meeting dated 13-11-2025 but in the light of order of this Hon'ble court in instant appeal pre-mature release of petitioner was reconsidered by*



*Bihar State Sentence Remission Board in meeting dated 21-04-2026 and it was rejected as the petitioner has not completed 20 years of incarceration together with remission.*

*While considering the pre-mature release of petitioner the Board confronted with a technical question that custody is the condition precedent to release whereas petitioner has already been set at liberty on bail.*

7. *That it is stated that as to the query, "is there any provision for pre-mature release of persons who are not able to work due to old age or disease" it is humbly submitted that Rule 483 of the Bihar Prison Manual, provides that;- When a convicted prisoner is in danger of death from sickness in the opinion of the Medical Officer, (not due to an infectious disease) with no hope of recovery within or outside the prison and it is considered desirable to allow such prisoner the comfort of dying at home, the Superintendent shall report the fact to the District Magistrate and to the Inspector General, Prisons & Correctional Services without any delay.*

*It is also submitted that from the facts available on record it is clear that petitioner doesn't come within the purview of Rule 483 and the same is evident from letter No.3299 dated 28-04-2026 and supporting documents.*

8. *That it is stated that as to the queries about "number of pending applications and status of those applications" it is humbly submitted that as on 28-04-2026 altogether 143 cases of pre-mature release are pending and detailed status of pending*



*cases is being hereby presented in a tabular form for convenient perusal of this Hon'ble court.*

9. *That it is stated that as to the query about "prescribed timeline for disposal of applications for pre-mature release", it is humbly submitted that as per Notification No. 3106 dated 10-12-2002, the State Remission Board is obliged to meet at least once in a quarter and the Chairman has got power to convene more meetings as required.*

*It is not out of place to mention here that exercising the power to convene more meetings, the Chairman of the Bihar State Sentence Remission Board called 5 meetings in the year 2025 and 4 meetings till 11-05-2026 in the year 2026 in order to clear the pendency. It is also submitted that more than 5 meetings could have been called in 2025 but due to very busy schedule of Home Department in Election Process during Bihar Assembly Elections.*

10. *That under the facts and circumstances mentioned above it is clear that the Remission Board is doing its best to clear the backlog by or before end of June 2026 and the delay (if any) is neither intentional ner deliberate”*

5. Learned Advocate General has placed the relevant provisions of the Bihar Prison Manual, 2012 (hereafter ‘2012 Manual’), which are as follows:

*“481. The following categories of prisoners shall be eligible to be considered for a review of sentences and premature release by the Board:*



i. *Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A CrPC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. <sup>2</sup>[The following categories of convicted prisoner covered under Section 433A Cr.P.C. undergoing life sentence would not be entitled to be considered for premature release even after undergoing imprisonment for 20 years including remission:]*

<sup>1</sup>*[(a) Such convicts who have been imprisoned for life for rape, rape with murder, dacoity with murder, murder involving offence under the Protection of Civil Rights Act, 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the prison, murder during parole, murder in terrorist incident, murder in smuggling operation,*

<sup>2</sup>*[x x x]*

*(b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-*



*meditation and with exceptional violence or perversity.*

*(c) Convicts whose death sentence has been commuted to life imprisonment.*

*ii. All other convicted male prisoners not covered by Section 433A Cr.PC undergoing the sentence of life imprisonment shall 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 actual imprisonment i.e. without remissions.*

*iii. The female prisoners not covered by Section 433A Cr.PC undergoing the sentence of life imprisonment shall be considered for premature release after they have served atleast 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e. without remissions.*

<sup>3</sup>*[(iv) In such cases in which life sentence has been awarded by specifying that the convict shall undergo life sentence till the end of his life without remission or commutation, benefit of remission or commutation shall not be given to convict.]*

<sup>3</sup>*[(v) In such cases in which life sentence has been awarded by specifying that the convict shall not be released by granting remission or commutation till he completes a*



*fixed term of 20 years or 25 years or like, remission or commutation shall not be granted to a convict until he completes the fixed term as prescribed in the sentence.]*

**482.** *The following procedure shall be followed for processing of the cases for consideration of the Review Board:*

- <sup>1</sup>*[i. After receiving application for remission from or on behalf of life convict, the concerned Superintendent of Prison shall initiate the case for premature release as per the criterion laid down by the State Government in that behalf but application received prior to four months from the date when the prisoner would become eligible for consideration of premature release shall not be considered].*
- ii. The Superintendent shall cause a comprehensive note prepared in each case, giving the background of the prisoner, and details of the offence for which he/she was convicted and sentenced. The note shall also reflect fully on the conduct and behaviour of the prisoner in the prison during the period of his/her incarceration, and during his/her release on probation/leave, change in his/her behavioural pattern, and prison offences, if any, committed by him/her and punishment awarded to him/her for such offences. A report shall also be made about*



*his/her physical and mental health or any serious ailment with which the prisoner is suffering.*

- iii. *The Superintendent shall make a reference to the Superintendent of Police of the district where the prisoner was ordinarily residing at the time of committing the offence (for which he/she was convicted and sentenced) or where he/she is likely to resettle after release from the prison. However, in case the place of his/her residence is not where he/she committed the offence, a reference shall also be made to the Superintendent of Police of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him to enable the Superintendent of Police to express his/her views in regard to the desirability of the premature release of the prisoner.*
- iv. *On receipt of the reference, the concerned Superintendent of Police shall have an inquiry made in the matter through senior officers of appropriate ranks and based on his/her own assessment shall make his/her recommendations. In case the Superintendent of Police is not in favour of premature release of the prisoner, he/she shall justify the same with cogent and material reasons. They shall return the reference to the Superintendent within 30 days of the receipt of the*



*reference.*

- v. *The Superintendent shall also make a reference to the Director Probation Services. On receipt of the reference, the Director Probation Services shall either hold or cause to be held an enquiry through a Probation officer; for the desirability or otherwise of premature release of the prisoner; taking into consideration his/her family and social background, his/her acceptability by his/her family members and the society, prospects of his/her rehabilitation and leading a meaningful life as a good citizen. In every case the Director Probation Services shall justify his/her recommendation with cogent and material reasons.*

<sup>1</sup>*[(vi) The Superintendent shall obtain opinion of the Presiding Judge of the Court (before or by which the conviction was had or confirmed) whether to allow or reject the application for remission.]*

<sup>2</sup>*[(vii) On receipt of the report/recommendations of the Superintendent of Police and Probation Officer and opinion of Presiding Judge of the Court (before or by which the conviction was had or confirmed), Superintendent shall put up the case to the Inspector General of Prisons and Correctional Services. The Inspector General of Prisons and Correctional Services shall examine the case, in view of the*



*opinion of Presiding Judge of the Court (before or by which the conviction was had or confirmed) and report/recommendations of the Superintendent of Police and Probation Officer regarding the premature release of a prisoner or otherwise. While doing so he/she shall keep in view the general or special guidelines laid down by the State Government for the State Sentence Remission Board. It shall be given proper attention to the various norms laid down and guidelines given by the Supreme Court of India and various High Courts in the matter of premature release of prisoners.]*

<sup>1</sup>*[(viii) Where the life sentences is given under any central law or any other similar offence under central law, the State Government shall not have the powers to exercise remissions or commutations.]*

**483. Premature release in case of danger of death from sickness.**-*When a convicted prisoner is in danger of death from sickness in the opinion of the Medical Officer, (not due to an infectious disease) with no hope of recovery within or outside the prison and it is considered desirable to allow such prisoner the comfort of dying at home, the Superintendent shall report the fact to the District Magistrate and to the Inspector General, Prisons & Correctional Services without any delay.*

*i. If the unexpired period of the prisoner's sentence does not exceed six months, the District Magistrate*



*is authorized to direct his/her immediate release, after making personal enquiries into the case, or in the event of the prisoner's offence having been committed in another district, after consulting the magistrate of that district.*

- ii. If the unexpired period of the prisoner's sentence exceeds six months but does not exceed 2 years, the Inspector General, Prisons & Correctional Services is authorized to direct his/her immediate release, after making personal enquiries into the case, and after consulting the magistrate of the district in which the crime was committed.*
- iii. If the unexpired period of the prisoner's sentence exceeds two years and if the Inspector General, Prisons & Correctional Services is satisfied about the need for premature release of a convicted prisoner in danger of death from sickness, then s/he shall report the facts of the case with his/her recommendations thereon, to the State Government which shall take appropriate decision about the release.*

**Note 1.-** *No prisoner who has no friends or relatives willing to take charge of him/her shall be released under this Rule.*

**Note 2.-** *This Rule shall not apply to a prisoner who goes on hunger strike. A prisoner on hunger strike shall in no circumstances be released.*

**Note 3. -***All release under this Rule shall be*



*counted as deaths in the statistical records of the prison.”*

6. While passing the order dated 16.04.2026, we mentioned in Paragraph No. 3 that when the matter was taken up on 08.12.2025, submission was made that since the Board found that the appellant had spent 15 years 7 months and 28 days as on 17.06.2025 in actual custody and with remission, therefore, in terms of Rule 481(i) of the 2012 Manual, his case for premature release would be considered only after completion of twenty years period with remission and that would be on 28.10.2029.

7. When we asked the learned Advocate General as to what was the actual custody period of the appellant Jagarnath Thakur, it was pointed out from the supplementary written objection filed on behalf of the respondent dated 20.06.2025 that as per letter dated 18.06.2025 of the Superintendent, Central Jail, Gaya Ji, the pre-trial detention period of the appellant was from 19.10.2009 to 21.05.2017, which is 7 years, 7 months and 03 days, and his post-conviction detention period was from 22.05.2017 to 15.06.2025 i.e. 8 years and 25 days. Thus, the actual detention period of the appellant, as per this document dated 18.06.2025, is more than 15 years.

8. In view of Rule 481 of the 2012 Manual, if the case



of the convict does not fall within the exceptions mentioned in sub-clause (a), (b) or (c) of clause (i) of Rule 481, then his case can be considered for premature release, provided it is covered under section 433A of Cr.P.C. after an actual imprisonment of 14 years.

9. The learned Advocate General fairly submitted that the case of the appellant does not fall within any of the aforesaid exceptions, as mentioned in sub-clause (a), (b) and (c) of clause (i) of Rule 481 of the 2012 Manual.

10. In view of such submission made by the learned Advocate General, we are unable to comprehend as to why the case of the appellant was not considered even though he has remained in actual custody for more than 15 years and why his case would only be considered after 28.10.2029.

Let a detailed counter affidavit to that effect be filed by the next date.

11. After going through the list enclosed with the supplementary counter affidavit filed on behalf of the respondent State dated 30.04.2026, we find that 143 cases of premature release applications sponsored by the Superintendents of Prisons are pending before the Bihar State Sentence Remission Board, which is annexed as Annexure-R/B and that



list shows that the applications have been received by the Board from the concerned Superintendents of Prisons on various dates. Needless to say that the date furnished indicates that 01 application is of the year 2019, 05 applications are of the year 2021, 03 applications are of the year 2022, 06 applications are of the year 2023, 16 applications are of the year 2024, 76 applications are of the year 2025 and 13 applications are of the year 2026 and 23 more applications (in which years are not mentioned) are also pending before the Board.

12. If according to the Rules of 2012 Manual, the Superintendent of Prison initiates the case for premature release upon receipt of application on behalf of the convict and has to take necessary steps in collecting the various reports as per Rule 482 of the 2012 Manual and to send it to the Board and the Board is having all the relevant documents which are required for consideration of the premature release of the convicts, and if they have already held five sittings in the year 2025 and three sittings have already been completed by today, we fail to understand as to why the cases of those 143 persons could not be considered as yet.

13. The Hon'ble Supreme Court in the case of *Rashidul Jafar -Vrs.- State of U.P., reported in (2024) 6*



**Supreme Court Cases 561** observed that:-

*“17. The implementation of the policy for premature release has to be carried out in an objective and transparent manner as otherwise it would impinge on the constitutional guarantees under Articles 14 and 21. Many of these life convicts who have suffered long years of incarceration have few or no resources. Lack of literacy, education and social support structures impede their right to access legal remedies. Once the State has formulated its policy defining the terms for premature release, due consideration in terms of the policy must be given to all eligible convicts. The constitutional guarantees against arbitrary treatment and of the right to secure life and personal liberty must not be foreclosed by an unfair process of considering applications for premature release in terms of the policy.*

*18. Significantly, the policy has been amended to remove the requirement of convicts submitting an application for premature release and instead places the responsibility on the officers of the State to consider eligible prisoners. The prison administration, legal services authorities at the district and State level and officers of the police department and the State must diligently ensure that cases of eligible prisoners are considered on the basis of policy parameters. We have gained a distinct impression, based on the cases which have come before the Court here and even earlier that there is a general apathy towards ensuring that the rights which have been made available to*



*convicts who have served out their sentences in terms of the policy are realised. This results in the deprivation of liberty of those who are entitled to be released. They languish in overcrowded jails. Their poverty, illiteracy and disabilities occasioned by long years of incarceration are compounded by the absence of supportive social and legal structures. The promise of equality in our Constitution would not be fulfilled if liberty were to be conditional on an individual's resources, which unfortunately many of these cases provide hard evidence of. This situation must change and hence this Court has had to step in. We now proceed to formulate peremptory directions.*

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19.6. *The applications for premature release shall be considered expeditiously. Those cases which have already been processed and in respect of which reports have been submitted shall be concluded and final decisions intimated to the convict no later than within a period of one month from the date of this order.....”*

In the case of ***Policy Strategy for Grant of Bail, In re, 2025 Supreme Court Cases OnLine Supreme Court 349,***  
the Hon’ble Supreme Court observed that:-

*“We, therefore, record the following conclusions:*

- a) *Where there is a policy of the appropriate Government laying down guidelines for consideration of the grant of premature release under*



*Section 432 of the CrPC or Section 473 of the BNSS, it is the obligation of the appropriate Government to consider cases of all convicts for grant of premature release as and when they become eligible for consideration in terms of the policy. In such a case, it is not necessary for the convict or his relatives to make a specific application for grant of permanent remission. When the jail manual or any other departmental instruction issued by the appropriate Government contains such policy guidelines, the aforesaid direction will apply;”*

The Hon’ble Apex Court in its order dated 16.03.2026 in ***Special Leave to Appeal Crl. No. 855/2026 (Mahesh Kumar Dhisalal Jangid -Vrs.- State of Gujarat)*** has been pleased to direct that:-

*“9. We need not reiterate the fact that the right for premature release is not a fundamental right, but it does take the nature of a vested right in a prisoner, once the State Government exercises its discretion and frames a policy. However, in matters which relate to life and liberty of a person, the Constitutional Principles have to be invoked, for the reason that every day beyond the period which in law has been prescribed, and in the present case, a statutory law relating to the period of incarceration, the person would be considered to be in illegal custody and rightly so, the Government had directed*



*that the process be started three months before the date on which the prisoner would be completing the 14 years of actual incarceration.*

10. *In the present case, in our order dated 12.12.2025, we had indicated that the petitioner had completed the requisite period and the learned counsel for the State had also indicated that the matter would now be considered and then we had granted more than three months time. Today also the stand being taken that the Committee is likely to take a decision soon, in our considered opinion, is absolutely unacceptable.*

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13. *It is further clarified that in future, if the above stipulation as per the policy itself is not implemented in its entirety and mandatorily, the same shall entail strict penal orders from this Court, including, but not limited to, initiation of suo motu contempt against all the persons who do not act in terms of the policy or if the final order does not come latest by the day on which the convict completes 14 years of actual incarceration.”*

14. Premature release of convicts is based on the philosophy of reformation and rehabilitation allowing those who have reformed, to reintegrate into the society. Application of premature release of convicts should be processed and disposed off at the earliest opportunity and power to grant premature



release must be exercised in a fair and reasonable manner.

15. List this matter on 13.05.2026 at 11:00 a.m.

16. The Home Secretary, Government of Bihar shall file an affidavit regarding the decisions taken by the Board scheduled to be held on 11.05.2026 in the cases of the pending 143 applicants for premature release.

17. Rule 482 (vi) of 2012 Manual states that the Superintendent of Prison shall obtain opinion of the Presiding Judge of the Court (before or by which the conviction was heard or confirmed) whether to allow or reject the application for remission.

It is not expected that due to passage of time, the very same Presiding Officer who passes the order of conviction against the convict would be available in the very station when the opinion by the Superintendent is sought for. Similarly, the Rule envisages that opinion of the Presiding Judge of the Court, in which the convict was tried, can be obtained. This Court fails to understand as to how a Presiding Judge of the Court, who has not conducted the trial of the convict, would give his opinion whether to allow or reject the application for remission. This provision needs to be clarified in the affidavit sought to be filed.

18. On the next date, both the Home Secretary,



Government of Bihar and the Inspector General (Prisons), Bihar  
shall appear through virtual mode.

19. A copy of the order be handed over to the learned  
Advocate General.

**(Sangam Kumar Sahoo, CJ)**

**(Harish Kumar, J)**

P.K.P./-

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