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W.P.Crl.No.486 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.04.2026

Pronounced on: 02.06.2026

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

W.P.Crl.No.486 of 2025
and WP.MP.Crl.No.230 of 2025

Nanjil Mugilan
S/o.Dhanapal,
Door No.01/02-70, Melcolony,
Mathaiyankuttai, Navappatti, Salem-636 452. .. Petitioner

vs

- 1.The State represented by its,
The Additional Chief Secretary to Government,
Home (Prison-IV) Department, Secretariat,
Fort St.George, Chennai – 600 009.
- 2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore, Chennai – 600 008.
- 3.The Superintendent of Prison,
Central Prison at Salem,
Hasthampatty, Salem-7. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus or any other appropriate Writ or Direction to call for the records in Impugned order in Letter No.9437861/Prison-IV/2025-2 dated 05.06.2025 passed by the 1st respondent and quash the same and consequently directing the



respondents to release forthwith the petitioner's Father/convict namely Mr.Dhanapal S/o. Angamuthu (PID No.33633) and may pass further or other order may deem fit and necessary.

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For Petitioner :Mr.M.Radhakrishnan
for Mr.M.Mohamed Saifulla

For Respondent :Mr.Hasan Mohammed Jinnah
assisted by
Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.S.Santhosh
Government Advocate

ORDER

(Made by Dr. ANITA SUMANTH, J.)

The petitioner is the son of a life convict (in short 'convict'), who had been implicated in Crime No. 1350 of 1997 in Omalur Police Station. An FIR was taken on file and final report filed in SC No. 34 of 1999, that had been tried by the I Additional District and Sessions Judge, Salem under Sections 148, 341, 302 IPC (5 counts) and under Section 3 of the Explosives Substances Act, 1908. The date of conviction is 20.10.2004, wherein the following sentences were imposed:-

<i>PENAL PROVISION</i>	<i>PUNISHMENT</i>
<i>148 of IPC</i>	<i>One Year Rigorous Imprisonment</i>
<i>341 of IPC</i>	<i>One Month Simple Imprisonment</i>
<i>302 (Five Counts)</i>	<i>Life Imprisonment under each count consecutively and Fine Rs.5,000/- I/d. two years Rigorous Imprisonment</i>
<i>3 of Explosive Substances Act</i>	<i>One-Year Rigorous Imprisonment</i>

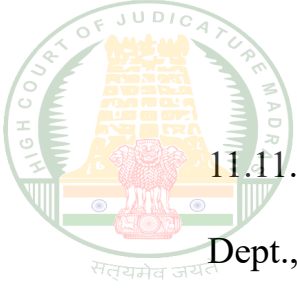


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2. The appeal filed by the convict in Crl.A.No.15 of 2007 was dismissed by this Court on 01.02.2007 and while confirming the trial court's judgment, the Court reiterated that the sentences would run concurrently. Pursuant to order dated 01.02.2007, the convict has been imprisoned in Central Prison, Chennai and his further appeal before the Supreme Court has also been dismissed. As on date, he has been incarcerated for more than 21 years.

3. According to Mr.M.Radhakrishnan, learned counsel, who appears for Mr.M.Mohamed Saifulla, learned counsel on record for petitioner, the convict has undergone substantial reformation during the period of incarceration. He has been granted leave several times without escort and no untoward incident has occurred.

4. Hence, the petitioner had moved the authorities with a representation seeking premature release of the convict. On account of the long pendency of the representation, W.P.No. 37931 of 2024 was filed, that came to be ordered on 08.01.2025 directing the respondents to pass appropriate orders on merits, within three months from date of receipt of a copy of that order. As a consequence, impugned order dated 05.06.2025 has come to be passed, rejecting representation dated



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11.11.2024 citing the conditions in G.O. (Ms). No.64, Home (PRI-IV)

Dept., dated 01.02.2018 (in short 'GO').

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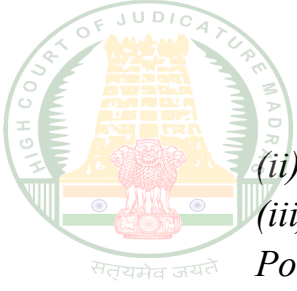
5. The primary argument of learned counsel for the petitioner is this. The rejection of plea for remission is based on paragraph 5 (II) (3) of the G.O. referring to Section 435 of the Criminal Procedure Code 1973. Section 435 sets out certain adumbrated conditions wherein concurrence would have to be sought and obtained from the Central Government for premature release of a convict, one of the conditions being the visiting of punishment under a Central Enactment. In this case, the convict had been convicted for a period of one year RI for offences under the Explosives Substances Act, 1908.

6. However, since the convict has already served the sentence in relation to the offence under the Explosives Substances Act, learned Counsel would argue that there was no further need to invoke paragraph 5 (II) (3) of the G.O, and to this extent, the reason for rejection is incorrect in law.

7. The petitioner relies on the following judgments:-

(i) *Thenthamizhan alias Kathiravan alias Dakshinamoorthi v. State of Tamil Nadu, represented by the Secretary to Government, Home (Prison IV) Department, Secretariat, Chennai-600 009 and Another*¹

¹ 2010 (2) MLJ (Criminal) 1077



- (ii) *State of Tamil Nadu and Ors. V. P.Veera Bhaarathi*²
- (iii) *Murthy and others v. State rep. by Inspector of Police, Omalur Police Station*³
- (iv) *Kokila v. The State rep. by its, The Additional Chief Secretary to Government, Home (Prison-IV) Department, Secretariat, Fort St.-George, Chennai-600 009 and others*⁴
- (v) *Muniyammal v. State of Tamil Nadu and Ors.*⁵
- (vi) *N.Perumalammal v. The State and Ors.*⁶
- (vii) *Ilamayil v. State and Ors.*⁷
- (viii) *C.Amutha v. Home Secretary, Home Department, Secretariat, Fort St. George, Chennai-600 009 and others*⁸
- (ix) *C.Amutha v. Shankar, Tamil Nadu Jail Service, Superintendent of Police, Salem Central Prison, Salem District and another*⁹
- (x) *The Superintendent of Police, Salem Central Prison, Salem and another. C.Amutha*¹⁰
- (xi) *Union of India v. V.Sriharan @ Murugan and Ors.*¹¹
- (xii) *Union of India v. V.Sriharan @ Murugan & others*¹²
- (xiii) *Home Secretary (Prison) & Ors. V. H.Nilofer Nisha*¹³

8. In fine, learned counsel for petitioner would submit that the present case does not attract the requirement under Section 435 of the CrPC as the period of sentence under the Explosives Substances Act had already been undergone.

2 2019 (2) Scale 225

3 (Crl.A.Nos.1395 of 2004 etc. batch dated 01.02.2007)

4 (WP.No.18934 of 2025 dated 23.07.2025)

5 (WP(MD)No.16540 of 2019 dated 08.11.2022)

6 (WP(MD)No.26313 of 2022 dated 25.08.2023)

7 (WP(MD)No.22805 of 2022 dated 14.11.2022)

8 2018 (3) MWN (Cr.) 342 (DB)

9 2021 (3) CTC 721

10 (SLP(Crl.)No.6170 of 2021 dated 27.08.2021)

11 (WP(Crl.)No.48 of 2014 dated 02.12.2015)

12 (WP(Crl.)No.48 of 2014 dated 06.09.2018)

13 2020 (1) ALT (Crl) 263



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9. We had sought the assistance of Mr. Hasan Mohammed Jinnah, learned Public Prosecutor and have heard him as well as Mr.R.Muniyapparaj, learned Additional Public Prosecutor.

10. The gravamen of the prosecution's case rests on Section 435 CrPC, as per which, concurrence of the Central Government is to be obtained in three circumstances being, the commission of (i) an offence under investigation by the Delhi Special Police Establishment or any other agency empowered to investigate an offence under a Central Act, (ii) an offence that involves misappropriation/destruction of/damage to, any property belonging to the Central Government or (iii) an offence committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty.

11. In the present case, the situations under Clause (a) and (c) do not apply and it is clause (b) of Section 435 CrPC that is invoked. According to the State, as the convict has been charged with offences relating to Central enactments, in this case, the Explosives Substances Act, the concurrence of the Central Government would have to be obtained.

12. Moreover, the G.O issued by the State Government contains a bar in respect of those cases where Section 435 stands attracted. The State



has thus, as a policy, decided to exclude the cases of those convicts who attract the rigour of Section 435 of the CrPC, from the benefit of Government Orders providing for remission.

13. Our attention is drawn to paragraph 5(III)(3) of G.O. 64, which specifies the condition that the cases where remission is sought, '*should not come under Section 435 of CrPC*'. Hence the very commission and conviction for offences as enumerated under Section 435 of CrPC would debar the concerned convict from invoking the benefit of plea of premature release.

14. The prosecution would rely upon the following judgments:-

1. *In Re: Policy Strategy for Grant of Bail*¹⁴
2. *Sonadhar v. The State of Chhattisgarh*¹⁵
3. *Government of Tamil Nadu Represented by its Secretary of Government, Home (Prison IV) Department & Ors. V. Mariammal*¹⁶
4. *Govt. of Tamil Nadu Represented by its Secretary of Govt., Home (Prison IV) Department & Ors. v. Mariammal*¹⁷
5. *Maru Ram v. Union of India and Others*¹⁸
6. *Epuru Sudhakar and Another v. Govt. of A.P. and Others*¹⁹
7. *State of Tamil Nadu and Others v. P.Veera Bhaarathi*²⁰
8. *Rajan v. Home Secretary, Home Department of Tamil Nadu and Others*²¹

14 2025 INSC 239

15 2022 LiveLaw (SC) 788

16 (Criminal Appeal No.865 of 2016 dated 08.09.2016)

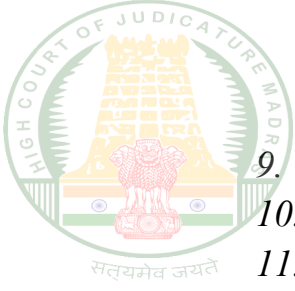
17 SLP(Crl.)No.6572 of 2016 dated 08.09.2016)

18 (1981) 1 SCC 107

19 (2006) 8 SCC 161

20 (2019) 18 SCC 71

21 (2019) 14 SCC 114



9. *S.Nalini Srikanan v. State of Tamil Nadu and others*²²
10. *State of Haryana and Another v. Jai Singh*²³
11. *Bhuvaneshvari v. The State represented by its; The Secretary to Government, Home Department, Fort St. George, Chennai 600 009 and another*²⁴
12. *Kokila v. The State rep. by its, The Additional Chief Secretary to Government, Home (Prison-IV) Department, Secretariat, Fort St.-George, Chennai-600 009 and others*²⁵
13. *Union of India v. V.Sriharan alias Murugan and others*²⁶
14. *K.V.Komarasamy v. The Government of Tamil Nadu represented by its Additional Chief Secretary to Government Home (Prison-IV) Department Fort St. George, Madras 600 001 and others*²⁷
15. *Kartik Subramaniam v. Union of India & Another*²⁸

15. We have heard all learned counsel in detail and perused the material papers and case law. Our decision in the matter is as follows. The primary facts in respect of the incarceration of the convict and his request for premature release have been captured in the paragraphs supra and are admitted.

16. The legal issue that arises for consideration relates to the interpretation of G.O.(Ms)No.64 dated 01.02.2018 in the context of Section 435 of the CrPC that reads as under:

22 2010 SCC OnLine Mad 3033

23 (2003) 9 SCC 114

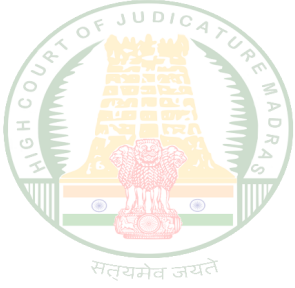
24 (WP.No.35049 of 2023 dated 07.08.2024)

25 (WP.No.18934 of 2025 dated 23.07.2025)

26 (2016) 7 SCC 1

27 (WP.No.16702 of 2019 dated 18.02.2022)

28 (WP.(Crl.)No.1642/2020 & Crl.M.A.No.13947/2020 dated 25.01.2021)



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‘435. State Government to act after consultation with Central Government in certain cases.

(1)The powers conferred by Sections 432 and 433 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence –

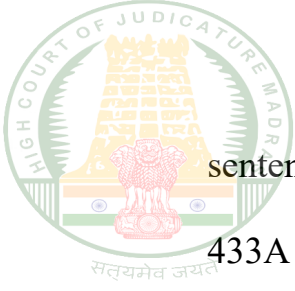
(a)which was investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, or

(b)which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(c)which was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, shall not be exercised by the State Government except after consultation with the Central Government.

(2)No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.’

17. Chapter XXXII of the Cr.PC deals with ‘Execution, Suspension, Remission and Commutation of Sentences’ and Part E comprising Sections 432 to 435, deals with Suspension, Remission and Commutation. Section 432 deals with the power to suspend or remit



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sentences, Section 433 with the power to commute sentences, Section 433A places restrictions on the powers of remission or commutation in certain cases, and Section 434 deals with the concurrent power of the Central Government in case of death sentences.

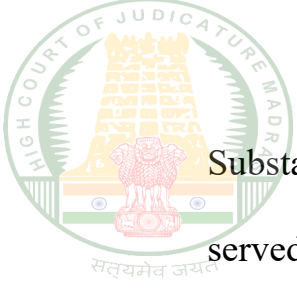
18. Section 435 requires the State Government to act in consultation with the Central Government in considering the grant of premature release in certain cases, namely, where the convict has engaged in (i) an offence under a Central Act (ii) an offence that involves misappropriation or destruction to Central Government's property or (iii) an offence committed by a Central Government employee in discharge of his official duty. In the present case, Section 435 has been pressed into service by the State, as one of the offences with which the convict is charged relates to the Explosive Substances Act.

19. The petitioner has relied on decisions of this Court in *K.V.Komarasamy*²⁹ and *Thenthamizhan alias Kathiravan alias Dakshinamoorthi*³⁰ wherein, while referring to Section 435 of the CrPC, the Court had found that the period of conviction relating to the offences under the Central Act had been served and hence the condition under Section 435 was not relevant any longer.

20. So too in the present case, the conviction under the Explosive

²⁹ Foot Note Supra (27)

³⁰ Foot Note Supra (1)



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Substances Act was for a period of one year and the petitioner had long served that. To clarify, the date of conviction is 20.10.2004 and the First Additional District and Sessions Court, Salem had imposed sentence concurrently under the IPC and Explosive Substances Act, the latter for a period of one year.

21. The convict has hence served the sentence under the Explosive Substances Act on 20.10.2005, and the interpretation of Section 435 canvassed by the Petitioner is that the provision ceases to have any consequence in circumstances where the sentence has been served, as in the present case. However, Mr.Jinnah has drawn attention to the fact that one of the ineligibilities under G.O.No.64 is a case attracting Section 435 of the CrPC, simplicitor.

22. According to him, the condition is to be understood literally, and the effect of the Government Order is to exclude from the purview of premature release, all cases where Section 435 would come into play, whether the sentence under the Central Act had been served or not. To put it differently, once an offence had been committed that would come under one of the three clauses of Section 435(1), then the convict would be debarred from the benefit of premature release. We will now proceed to test this argument.



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23. *Maru Ram*³¹ is the locus classicus on the issue of premature release, wherein the vires of Section 433A was upheld. In *Epuru Sudhakar*³², the ratio of *Maru Ram*³³ stood affirmed in favour of premature release, where granted judiciously.

24. In *Mariammal's*³⁴ case, the Supreme Court was considering a challenge by the State of Tamil Nadu, to the grant of remission. In fact, the aspect of remission had lost its relevance in that case, as that convict had been set at liberty at the time when the matter was heard by the Supreme Court.

25. However, the Court, while noting G.O.(Ms)No.873 dated 14.09.2006, G.O.(Ms)No.1326 dated 12.09.2007 and G.O.(Ms)No.1155 dated 11.09.2008, directed the State to issue a fresh Circular keeping in mind Section 433A of the Cr.P.C. and the judgments of the Supreme Court in *Epuru Sudhakar*³⁵, *Maru Ram*³⁶ and *Sriharan alias Murugan*³⁷. G.O.No.64/18 has been issued as a consequence of that judgement.

26. In *Rajan's*³⁸ case, the Supreme Court considered a challenge to early release granted to that convict. In that matter, the prisoner was tried

31 Foot Note Supra (18)

32 Foot Note Supra (19)

33 Foot Note Supra (18)

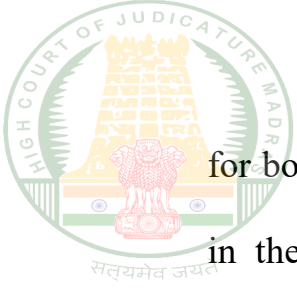
34 Foot Note Supra (16)

35 Foot Note Supra (19)

36 Foot Note Supra (18)

37 Foot Note Supra (12)

38 Foot Note Supra (21)



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for both offences under the IPC and the Arms Act, and G.O.(D)No.6033,

in the context of which the plea for remission had been considered,

contained a condition similar to G.O.64, as in the present case. However,

the Court noted that Section 435 would not be relevant as the sentence

awarded for those offences had been completed by that time and the plea

for remission was hence considered limited to IPC offences only. The

ratio in *Rajan's* case thus supports the first argument of the Petitioner in

full.

27. In *S.Nalini Srikaran*³⁹, the question was whether G.O. (Ms)No.873, Home (Prison-IV) Department, dated 14.09.2006 that carved out a classification between life convicts that fell within and outside the scope of Section 435, is a reasonable classification to protect the interests of society. The specific condition in the aforesaid Government Order reads '*that their cases do not come under section 435 Criminal Procedure Code*'.

28. The question was answered in the affirmative, the Court concluding that '*. . . . The classification brought in between the life convicts falling within the scope of Section 435 Cr.P.C. and the life convicts falling outside the scope of Section 435 Cr.P.C. is a reasonable classification to protect the interest of the Society since the nature of the*

39 Foot Note Supra (22)

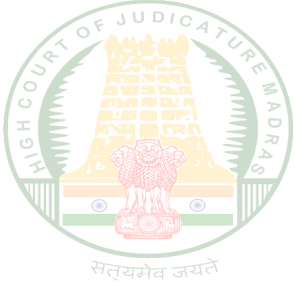


offence also plays a major role in considering the case of premature release of the convicts by exercising the remission powers of the Government.'

29. *S.Nalini Srikaran*⁴⁰ was carried to the Supreme Court and a Constitution Bench of the Supreme Court dealt with Section 435 in the following terms:

'213. There is one more provision, namely, Section 435 (2) CrPC which needs to be considered at this stage. It is possible that in a given case the accused may be convicted and sentenced for different offences, in respect of some of which the Executive Power of the Union may extend and to the rest the Executive Power of the State may extend. Since the Executive Power either of the Union or the State is offence specific, both shall be appropriate Governments in respect of respective offence or offences to which the Executive Power of the respective Government extends. For instance, an offender may be sentenced for an offence punishable under an enactment relatable to subject under List I of the Constitution and additionally under the Indian Penal Code. Such eventuality is taken care of by sub-section (2) of Section 435 and it is stipulated that even if the State Government in its capacity as an appropriate Government in relation to an offence to which the Executive Power of the State Government extends, were to order suspension, remission or commutation of sentence in respect of such offence, the order of the State Government shall not have effect unless an appropriate order of suspension, remission or commutation is also passed by the Central Government in relation to the offence(s) with respect to which Executive Power of the Union extends. Relevant to note that it is not with respect to a specific offence that both the Central Government and State Government have concurrent power but if the offender is sentenced on two different counts, both

40 Foot Note Supra (22)



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could be the appropriate Governments in respect of that offence to which the respective Executive Power extends.

214.

215. *In the instant case as the order passed by this Court in State v. Nalini [(1999) 5 SCC 253], the respondent convicts were acquitted of the offences punishable under Sections 3(3), 3(4) and 5 of the TADA Act. Their conviction under various Central laws like the Explosive Substances Act, the Passport Act, the Foreigners Act and the Wireless Telegraphy Act were all for lesser terms which sentences, as on the date, stand undergone. Consequently, there is no reason or occasion to seek any remission in or commutation of sentences on those counts. The only sentence remaining is one under Section 302 IPC which is life imprisonment. It was submitted by Mr. Rakesh Dwivedi, learned Senior Advocate that Section 302 IPC falls in Chapter XVI of IPC relating to offences affecting the human body. In his submission, Sections 299 to 377 IPC involve matters directly related to “public order” which are covered by List II Entry 1. It being in the exclusive executive domain of the State Government, the State Government would be the appropriate Government. It was further submitted that assuming Section 302 read with Section 120-B IPC are relatable to Entry 1 of List III being part of the Indian Penal Code itself, then the issue may arise whether the Central Government or the State Government shall be the appropriate Government and resort has to be taken to provisions of Articles 73 and 162 of the Constitution to resolve the issue.’*

30. The conclusion of the Supreme Court at paragraph 215 is directly on point, wherein the Supreme Court holds that the assessment of a plea for remission is dependent on the sentence relating to the specific offence relatable to Section 435 of the CrPC. In other words, the State is required, as on the date of considering the plea, to note only the sentence



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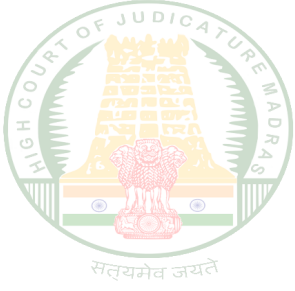
awarded for the offence relating to Section 435, in this case, to the offence under the Explosive Substances Act. Since this sentence has been long served, the question of the same standing in the way of considering the plea for remission will not arise.

31. This question has also been considered in *Jaisingh's case*⁴¹ where the State of Haryana had challenged premature release granted to a convict who took benefit of Notification dated 14.08.1995. The aforesaid Notification excluded convicts guilty of certain enumerated offences, such as rape, dowry death, abduction and murder of a child below 14 years, offences coming under Sections 121 to 130 IPC, persons sentenced under NDPS, TADA, Foreigners Act, Passport Act, Detention laws and violation of jail manual (in short, 'enumerated offence'), from its benefit.

32. Since the convict in that case had been found guilty of offence under Section 376 IPC, an enumerated offence, he became ineligible for remission and approached the Court questioning the classification of the offences for denying remission. Considering the ratio of various cases including *Sunil Batra v. Delhi Administration*⁴², the Court held that the classification of offences on the basis of which remission was considered, was justified. Relevant part of the judgment reads as follows:-

41 Foot Note Supra (23)

42 AIR (1978) SC 1675



"10. In Sunil Batra v. Delhi Admn. [(1978) 4 SCC 494], this Court upheld the validity of a classification based on the gravity of the offence.

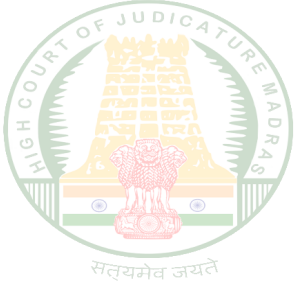
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11. From the above observations of this Court, it is clear that the gravity of the offence can form the basis of a valid classification if the object of such classification is to grant or not to grant remission.

12. Having come to the conclusion that the gravity of the offence can be the basis for a valid classification, we will now consider whether the offences excluded from the impugned notification can be said to be such offences which have been wrongly excluded from the benefit of remission. We notice that the convicts who have been excluded from the benefit of the said notification, are those convicts who have been sentenced for offences of rape, dowry death, abduction and murder of a child below 14 years, offences coming under Sections 121 to 130 IPC, dacoity, robbery etc. These are the offences for which the Code has prescribed the sentence of rigorous imprisonment extending up to life, therefore, from the very nature of the sentence which the offence entails, the said offences can be categorised as grave offences, therefore, they can be aptly classified as grave offences, which classification will be a valid classification for the purpose of deciding whether the persons who have committed such offences should be granted remission or not. On this basis, we are of the opinion that the State Government having decided not to grant remission to these offenders/offences which carry life imprisonment, should not be granted remission, is justified in doing so.

13. Similarly, the offences under the NDPS and the TADA Acts, apart from carrying heavy penal sentences are offences which could be termed as offences having serious adverse effect on the society, cognizance of which is required to be taken by the State while granting remission, therefore, they can also be classified as offences which should be kept out of the purview of remission.

14. The offences enumerated in Sections 121 to 130 IPC are the offences against the State, though some of them may not



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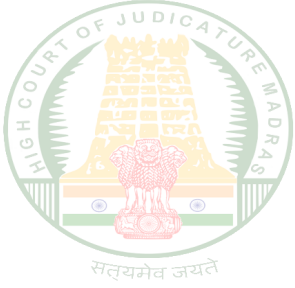
be punishable with life imprisonment, still taking into consideration the nature of offence which undermines the security of the State, in our opinion, can be classified for exclusion from the benefit of remission.

15. Again the offences under the Foreigners Act, the Passport Act, the Official Secrets Act also being offences against the State, they can be classified as offences which will not be entitled to the benefit of remission. The persons who have indulged in the breach of mandate of the jail manual can also be classified as the offenders who should not be granted the incentive of remission because of their conduct during the period of their conviction. Therefore, we are of the opinion that the offences excluded from the benefit of remission under the impugned notification have been properly classified which classification, in our opinion, is a valid classification for the purpose of making them ineligible for the grant of remission.”

33. We do not believe that this judgment has any impact on the present matter, and the issue for resolution before us is something else altogether. It is not the specific condition in G.O.(Ms)No.64 that is in challenge before us, but the interpretation thereof by the State. The question is whether reference to Section 435 in the G.O., remains a hurdle even if the sentence for the offence relating to Section 435, has been served, and our conclusion is in the negative, drawing support from the judgments cited supra.

34. Moreover, the condition relating to Section 435 that is found in G.O.64, has been modified by the State in the subsequent Government Order, G.O.(Ms).No.430 dated 11.08.2023 wherein the conditions in clause 5 (II)(e & f) states as follows:-

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“e) That their cases should not come under section 435(1) of Code of Criminal Procedure, 1973.

f) The cases of prisoners whose conviction and sentence comes under the purview of section 435(2) of Cr.P.C. can be considered for premature release, if the period of such sentence has been undergone by the prisoners.”

35. Hence, the line of judgments referred to in the paragraphs supra and interpreting Section 435 to mean that the consent of the Centre is required only if the tenure of sentence for the offence under the Central Act is still current, has been accepted by the State. In such circumstances, we are of the view that the condition in G.O.(Ms).No.64 too, must be similarly understood. To do so otherwise would be contrary to the explicit intention of the provision, and the understanding thereof by the State, as evident from the subsequent Government Orders.

36. We thus allow this Writ Petition setting aside the impugned order and remitting the matter to the authorities for reconsideration in light of the observations in this order. Let orders be passed, as aforesaid, within a period of four (4) from the date of uploading of this order on the portal of this Court. No costs. Connected miscellaneous petition is closed.

37. A footnote. The Supreme Court passed judgment on 13.04.2026 in *Surendra @ Sunda v. State of Uttar Pradesh* (SLP Crl.Diary No.28783 of 2024) and a short synopsis is as follows.

38. The order of the Allahabad High Court was under challenge on



confirming conviction for charges under Section 302 read with Sections

149 and 148 of the IPC and consequently sentence of life imprisonment

awarded to *Surendra*. When the matter was taken up for hearing, that

appellant had been granted bail in pursuance of an order passed on

10.01.2024 by the Allahabad High Court in Criminal Appeal No.165 of

2016 in *Ganesh v. State of Uttar Pradesh*, wherein the High Court had

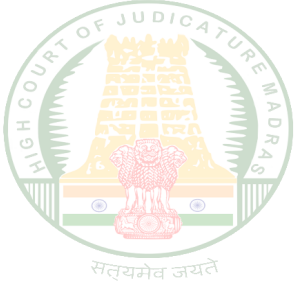
issued directions to release convicts on bail in the event their applications

for pre-mature release had been kept pending for more than 6 months.

39. At paragraph 4, conflicting views taken by the Benches of the

High Court have been noted, and we reproduce paragraph 4 below:

4. It was informed in the State's affidavit dated 06.09.2024 that the full Bench of the High Court's Lucknow bench had taken cognizance of the correctness of the directions issued in Ganesh (Supra), and therefore, in the case of Ambrish Kumar Verma vs. State of Uttar Pradesh (Criminal Misc. Writ Petition No. 1915 of 2024), after considering the same, it was held that the power of remission is only retained by the appropriate authority. The Division Bench could not have issued any general direction to the Chief Judicial Magistrates for releasing the convicts on bail without any orders passed in the pending appeals of such convicts before the High Court or by the Competent Courts. In the interregnum, however, prior to the judgment of the Full Bench in Ambrish Kumar (Supra), many convicts were released on bail in furtherance to the directions in Ganesh (Supra) by the respective Chief Judicial Magistrates. Since direction to take back the accused into custody was not issued by the Full Bench in Ambrish Kumar (Supra) and the order of Ganesh (Supra) though not found as good law, however, the position was required to be reversed by the High Court



itself.

40. Pursuant to directions issued, the State of Uttar Pradesh filed a compliance affidavit annexing a list of 158 prisoners who had been released as their early release applications had been pending for more than 6 months.

41. The Supreme Court in paragraph 7 of the judgment in *Surendra @ Sunda* notes that five mechanisms for pre-mature release were being followed in the State of Uttar Pradesh. They are (i) Uttar Pradesh Prisoners Release on Probation Act, 1938, (ii) Section 432 of Code of Criminal Procedure, 1973 read with Para 180 of U.P. Jail Manual, 2022, (iii) Section 432 of Code of Criminal Procedure, 1973 read with Para 177, 178, 179 of U.P. Jail Manual, 2022, (iv) Article 161 of the Constitution of India along with filters formulated by State in Standing Police made in 2018 as amended in 2021 and 2022 and (v) General Mercy Petition under Article 161 of the Constitution of India.

42. The above series of events paved the way for more petitions from convicts who were eligible for grant of early release, and the relief sought by the convicts were by way of intervention and directions seeking protection from re-arrest until a decision on their remission applications was passed.

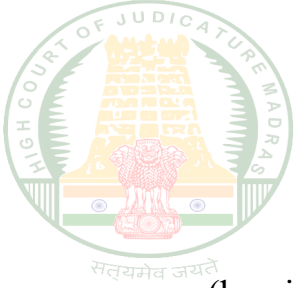
43. The Supreme Court sought jail-wise particulars in respect of



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the details of prisoners who had completed 14 years of sentence, and the compliance affidavit indicated the large number of prisoners whose applications for remission were pending at various stages. Vide a daily order dated 04.03.2005 the State of Uttar Pradesh was directed to develop a software to implement judgment dated 18.02.2025 of the Supreme Court in *Policy Strategy for Grant of Bail, In Re.* That order reads as follows:

“9. At this stage, we may note here that the National Legal Services Authority (NALSA) has formulated a Standard Operating Procedure on legal assistance, operationalisation, and co-ordination in improving the process of premature release, parole, furlough of prisoners, 2022 (for short, ‘the SOP’). The SOP has been formulated as per the directions issued by this Court in Special Leave Petition (Crl.) No. 4358-59 of 2021 in the case of Kadir v. State of Uttar Pradesh. The SOP contemplates prison superintendents of all the prisons preparing a list of all life convicts and other convicts who will be entitled to be considered for premature release in immediate four months as per the eligibility provided under the state policy. It is thus apparent that after the preparation of a list of all life convicts and other convicts who will be entitled to be considered for premature release, the said list must be regularly forwarded by the prison superintendents to the appropriate Government so that the case of premature release of such convicts is considered by the appropriate Government. Since we are on the SOP made by the NALSA, we may note here that the SOP provides for appointing an advocate for the purposes of challenging the order refusing to grant permanent remission. We request NALSA to consider incorporating in the SOP the requirement of bringing to the notice of the convict the fact that the convicts have the liberty to challenge the order of rejection of grant of premature release.



44. As a result, the 'E-Prisons Early Release Processing Module'

(hereinafter referred to as the 'software') has been developed and the

salient features are as follows:

(i) *The process for premature release of convicts is automatically commenced by identifying the prisoners who are eligible for premature release, four months in advance;*

(ii) *The prisoner/guardian receives routine updates regarding the progress of his/her application, at each stage of the process, through automated alerts via SMS and WhatsApp;*

(iii) *The physical movement of files is eliminated by uploading the PDF / scanned files to the online platform during the pilot stage of implementation. It is envisioned that once the infrastructure and training is in place, at a later stage, this would migrate to an automated paperless online system;*

(iv) *The procedural delay at each stage/level of the process is sought to be curtailed by enforcing timelines upon the respective stakeholders, along with a short grace period to meet unforeseen exigencies. Further, based on the inputs of the Court, an alert system has been implemented for each stakeholder with different colour coding for process undertaken within the time period prescribed, and for the grace period;*

(v) *It is proposed to provide for interconnectivity of data of the prisoner available with the Jail (Prisoner Identification Number), Police Station (FIR), and Courts (Case Number Record) so as to automate data-sharing;*

(vi) *Accountability has been fixed upon each stakeholder through digital signatures and linking of login ID of the officers concerned in the interest of transparency;*

(vii) *There is centralised monitoring and processing update dashboard for the competent authorities to monitor the stakeholders and track the time taken by each stakeholder, for generating quarterly reports, to identify delays, and to trigger remedial actions.*



45. A pilot project for the implementation of the software is on-going presently in the State of Uttar Pradesh and in order to operationalize the pilot project, the following directions had been issued.

(i) The State Government shall provide the following necessary human resources, including but not limited to:

i. two computer operators at the Central Jail, Agra; ii. one computer operator at the District Jail, Lucknow; iii. one computer operator at all range offices; iv. three computer operators at Prison Headquarter level in the concerned branch;

v. three computer operators at the State Government level in the concerned branch and

vi. two technical experts with domain knowledge in computer applications to supervise and assist the work of the above-mentioned computer operators and co-ordinate with the NIC in case of any technical issues.

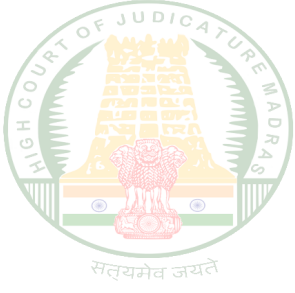
(ii) The aforementioned computer operators shall exclusively be tasked with the implementation of the Processing Module as their responsibility.

(iii) The State government shall provide computers and other infrastructural / hardware requirements of the aforementioned computer operators and technical experts and facilitate their working;

(iv) The NIC and the State shall within a time period of three weeks, together set up a team of officers, and assign one suitable person as the Nodal officer who shall impart training to the officials and stakeholders for effective operation of the software. Such training shall be imparted with representation of the District Legal Services Authority and State Legal Services Authority;

(v) The computer operators as mentioned in direction (i) shall be engaged within the next four weeks and the first training session and initiation of the pilot project of the Processing Module shall be undertaken within a period of four weeks at Central Jail, Agra and District Jail, Lucknow;

(vi) In case any further directions are necessary to facilitate the pilot project of implementation of the Processing Module, liberty is granted to file an application



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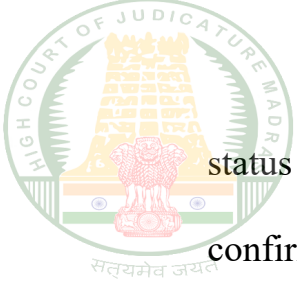
in that regard.

(vii) The State of Uttar Pradesh shall make all necessary logistical arrangements for the pilot project and ensure its smooth operation. The Principal Secretary (Prisons) and the Director General (Prisons) shall oversee such implementation.

(viii) The State Legal Services Authority shall also set-up a committee within a period of four weeks, which shall co-ordinate with the State and respective stakeholders to steer the implementation of the pilot project. If the State Legal Services Authority deems it necessary, it may request a Hon'ble retired judge of the High Court having an interest in the cause to monitor the due implementation of the software, on pro bono basis. Furthermore, if the committee or the respective Hon'ble retd. Judge has any recommendations, they may be placed before the Registry of this Court, at which point the matter shall be listed for further directions.

46. In conclusion, the Supreme Court has directed the Registry to circulate order dated 13.04.2026 to all other States in order that similar initiatives are taken. The Hon'ble Chief Justice of India has, in an event convened on 27.05.2026, also launched the '*E-Prisons Early Release Processing Module*' and this Court seizes this opportunity to enable the implementation of the Module in the prisons in the State of Tamil Nadu as well. As a first step, the prisons at Puzhal will be taken up as a pilot project for implementation of the software.

47. The Registrar (IT) is directed to convene a meeting of the stakeholders/authorities as required for proper implementation of the software including the personnel mentioned in the judgment of the Supreme Court dated 13.04.2026, within two (2) weeks from today and a



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status report be placed before this Bench within a week thereafter

confirming the readiness of the Module for implementation in the prisons

at Puzhal.

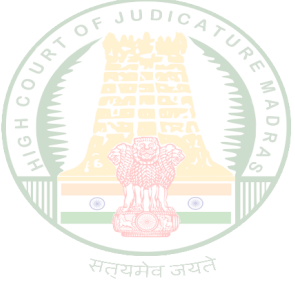
48. List on 29.06.2026 under the caption 'for reporting compliance'.

[A.S.M, J.] [S.M, J.]
02.06.2026

Index:Yes
Speaking Order
Neutral Citation:Yes
sl/vs/ssm

To

- 1.The State represented by its,
The Additional Chief Secretary to Government,
Home (Prison-IV) Department, Secretariat,
Fort St.George, Chennai – 600 009.
- 2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore, Chennai – 600 008.
- 3.The Superintendent of Prison,
Central Prison at Salem,
Hasthampatty, Salem-7.
- 4.The Public Prosecutor,
High Court of Madras.



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DR. ANITA SUMANTH,J.

and

SUNDER MOHAN,J.

sl/vs/ssm

W.P.Crl.No.486 of 2025

And WP.MP.Crl.No.230 of 2025

02.06.2026