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

% ***Reserved on: 12th December, 2025***
Pronounced on: 5th June 2026

\+ **W.P.(CRL) 1041/2021, CRL.M.A. 13119/2021, CRL.M.A. 17749/2022, CRL.M.A. 26143/2022 & CRL.M.A. 16189/2023**

MD. RASHID KHAN
Life Convict No.7048/A,
Presently lodged at
Presidency Correctional Home,
WEST BENGAL. .....Petitioner

Through: Mr. Varun Goswami & Ms. Dakshita Sharma, Advocates.

versus

1. UNION OF INDIA
Through the Secretary
Government of India
Home Department Ministry of Home Affairs,
North Block
New Delhi-110001 .....Respondent No.1

2. **STATE OF WEST BENGAL**
Through the Secretary
Department of Home Affairs
Nabanna, Kolkata,
WEST BENGAL .....Respondent No.2

Through: Mr. Ripudaman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Amit Kumar Rana, Advs. Mr. Kunal Chatterji, Advocate for R-2.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The petitioner, Rashid Khan, convicted *on 31.08.2001,* in TADA *Case No.01/1993* in FIR *dated 31.12.1992*, under *Section 120B/436/302 IPC, 3 and 5 Explosive Substances Act and 3 & 4 TADA, PS Sec H (Bowbazar), by the Judge, Designated Court TADA, Calcutta,* has sought to *quash and set aside the Orders dated 29.05.2017 passed by the State Sentence Review Board in its 59th Meeting and Order dated 08.08.2018 passed at the Special Meeting of the State Sentence Review Board,* ***rejecting the pre-mature release of the Petitioner*** *and to* ***direct the Central Government to grant the benefit of remission for the premature release of the Petitioner,*** *by way of* Writ Petition filed under Article 226 Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*)

2. ***Briefly stated***, the Petitioner was arrested in TADA *Case No.01/1993, dated 31.12.1992* wherein after he was *convicted on 31.08.2001, by the Judge, Designated Court TADA, Calcutta.* The Apex Court dismissed the Criminal Appeal No.1114/2001 and other connected criminal Appeals, filed by the Petitioner and the other co-accused persons, and upheld the conviction and sentence of all the accused persons, including the Petitioner.

3. ***He is in Judicial Custody since 03.03.1993, i.e. for a period of more than 26 years and 10 months, till the date of filing of the present Petition.***

4. The Petitioner stated that the Government of West Bengal, in exercise of powers under Section 432 Cr.P.C. ***remitted the unexpired portion of the sentence of co-accused, Pannalal Jaysoara,*** in terms of Notification No.980-J/JD/III/2P-38/13 ***dated 05.03.2014*** *and was directed to be released immediately from custody by the Government of West Bengal.*

5. However, thereafter Writ Petition (Cr.) No.48 of 2014 titled *Union of India Vs. V. Sriharan*, (2016) 7 SCC) was filed by U.O.I. on 27.02.2014, questioning the jurisdiction of the State Remission Board to grant remission under the Central Acts, wherein the Constitution Bench, by its interim Order dated 09.07.2014, restrained the State Governments from exercising the power of remission, during the pendency of the said Writ Petition.

6. *In the interim, on 25.03.2015, in its* ***56th State Sentence Review Board*** (hereinafter referred to as *'SSRB'*) Meeting, presided by the Additional Chief Secretary, Home Department, Government of West Bengal, a total number of 32 cases were placed for consideration and ***the cases of 5 life convicts, including the Petitioner, were recommended for premature release after considering:***

> *(i) The individual reports from Police Authority, Correctional Home Authority and Probation cum-After Care Authority;*
> *(ii) The tenure of imprisonment served by the life convicts;*
> *(iii) Physical and mental condition, age, conduct during incarceration, potentiality of committing crime in future, social acceptance, chances in rehabilitation etc. of the life convicts.*

7. ***The Petitioner's case for premature release was considered favorably,*** however, it was recorded that the **Release Order for the five life convicts, including the Petitioner, shall be issued** by the Judicial Department after observing necessary formalities, including obtaining leave of the Supreme Court of India, in view of the Order dated 09.07.2014 in W.P. (Crl.) No. 48 of 2014, due to which direction, the case of the Petitioner was not processed for issuance of a formal Release Order.

8. With the decision of the Constitution Bench as reported in *Union of India vs. V. Sriharan*, (2016) 7 SCC 1, the restrictions imposed in terms of the modified Interim Order dated 23.07.201, stood vacated.The Writ of *V. Sriharan* (supra) was decided with a verdict by a majority of 3:2, on 02.12.2015.

9. The SSRB, again considered the case of the Petitioner, in its subsequent *Meeting held on 10.09.2015, but did not confirm his case for premature release,* because of the restrictions placed in terms of Order dated 23.07.2015 by the Apex Court.

10. The Government of West Bengal in response to a RTI dated 12.05.2016, filed by the Petitioner's son, confirmed that the recommendation made in the 56th Meeting of the SSRB held on 25.03.2015, was reviewed due to the Order dated 23.07.2015 passed by the Supreme Court of India, in Writ Petition (Crl.) No. 48/2014

11. In *State of Gujrat & Anr vs. Lal Singh @ Manjit Singh & Ors*, Criminal Appeal No. 171 of 2016, ***Supreme Court of India held that for TADA offences, the appropriate government for consideration of premature release, was the Union Government.***

12. On 22.07.2016, pursuant to a RTI query, the Government of West Bengal replied that although the premature release of the Petitioner had been granted earlier on 25.03.2015, the Government of West Bengal, was restrained from exercising its power of pre-mature release, in view of the Order dated 09.07.2014 passed by the Supreme Court of India in *V. Sriharan @, Murugan & Ors*, (supra).

13. On 02.09.2016, the Petitioner filed *Writ Petition (Crl.) No. 138 of 2016* before the Supreme Court of India, *inter alia* claiming that *the continued incarceration of the Petitioner is illegal, in view of the decision of the State Sentence Review Board dated 25.03.2015; and for directing the Union of India to immediately consider the representation made by the Petitioner dated 08.08.2016 and release the Petitioner forthwith.* ***On 11.01.2017, the Writ Petition, was dismissed.***

14. The Petitioner approached the Union of India through the Home Secretary, Ministry of Home Affairs, Government of India, on 08.08.2016, and sought for premature release on the ground that the *co-accused was already released* and that the State of West Bengal had no objection and had in fact, at a prior point in time, recommended for release of the Petitioner. However, the Petitioner received no response from the Union of India.

15. The matter was consistently followed by the son of the Petitioner, who sent Letters/reminders dated 08.08.2016 , 19.07.2017, 30.08.2017, 24.10.2017 and on 23.01.2017 to the Home Secretary, Ministry of Home Affairs, Government of India and the Hon'ble Home Minister, Government of India, with respect to his earlier letter dated 23.01.2017.

16. On 29.05.2017, the prayer of the Petitioner seeking premature, was ***again rejected by the State Sentence Review Board, in its 59th Meeting.***

17. The son of the Petitioner also wrote a Letter dated 18.09.2017, to the DG & IG, Correctional Services, West Bengal requesting them to refer the case of the Petitioner for remission of his sentence, to the Ministry of Home Affairs for their consideration, in view of the Order dated 11.01.2017 passed by the Supreme Court.

18. The IS-II Division, Ministry of Home Affairs, Government of India, replied vide letter dated 08.09.2017, and Letter dated 08.11.2017, stating that the Application of the Petitioner for premature release, was still under process. The son of the Petitioner followed up the matter again through Letter dated 15.11.2017, but to no avail.

19. Reliance has been placed on *The Home Secretary (Prison) & Ors. vs. H. Nilofer Nisha*, Criminal Appeal No. 144 of 2020 and connected matters, wherein it was held that *once a reasoned order is passed, then the detenu has a right to challenge that order. In such cases, the High Court may examine the the record of the case, and if it comes to the conclusion that the order is not a proper order, then it can direct the release of the prisoner, by giving him the benefit of the Scheme.*

20. The Petitioner by way of present **Writ Petition** has *challenged the arbitrary and illegal action of the Respondents***, on the grounds** that *vide* Order dated 25.03.2015, the SSRB had recommended the release of the Petitioner.

21. With the decision of the Constitution Bench as reported in *Union of India vs. V. Sriharan*, (2016) 7 SCC 1, the restrictions imposed in terms of the modified Interim Order dated 23.07.201, stood vacated.

22. Further, the ***co-accused Pannalal Jaysoara*** stood released in terms of Notification No.980-J/JD/III/2P-38/13 dated 05.03.2014.

23. The petitioner referred to the following documents from the Superintendent, Presidency Correctional Home, Alipore, Kolkata, namely:

a. *Detention Certificate dated 12.02.2020.*
b. *Character Certificate dated 12.02.2020.*
c. *Work done at Correctional Home during the period of detention as per communication dated 12.02.2020.*
d. *Medical Certificate dated 11.02.2020.*

24. The *Character Certificate granted by the Superintendent, Presidency Correctional Home* records that the conduct of the Petitioner is free from any punishment and that his behaviour in the Correctional Home is '*very very good*', during the period of custody, which spans over 26 years and 10 months; he has been very cooperative with the Authorities and co-inmates. The Character *Certificate* further records that the Petitioner has been released on parole several times and he has returned to the Correctional Home, in due time.

25. The Work done during detention, which includes cleaning and gardening in the cell of Alipore Central Correctional Home, Labour at Art School of Alipore Central Correctional Home and day and night watch (*pahara*), at Presidency Correctional Home.

26. Additionally, Petitioner had been *granted parole* without Police escort for 93 days and had reported at the prison within time, which speaks of his conduct, there is no complaint made by any member of any community against the Petitioner, as regards to any threat having been extended by the Petitioner to any individual(s); display of any enmity towards any individual(s); or hurting sentiments of any religious community, etc., which shows that the apprehension of the Respondents, is completely unfounded

27. Moreover, the reasons which are being cited to deny the benefit of premature release to the Petitioner, become pale when compared with the age of the Petitioner being 72 years, period of detention of the Petitioner being 26 years and 10 months, and character and conduct of the Petitioner during detention and medical ailments suffered by him. The fact that Petitioner has been released on parole for 93 days without police escort and no incident taking place during the period of release, belies the claim of the Respondents regarding enmity, the chance of further recurrence of crime, as well as the chance of retaliation upon the witnesses, continuing to exist. Therefore, a humane approach ought to be taken, because the most crucial and germane aspect amongst the various theories for punishment which are propounded, *is the effect of reformation of the accused as part of retribution*.

28. The adverse reasons cited against the Petitioner, ought to be weighed in the context of the *Report of the Superintendent which has recommended positive chance of rehabilitation upon release.*

29. In the judgment *of The Home Secretary (Prison) & Ors. vs. H. Nilofer Nisha*, the Supreme Court of India had held that the conduct of the concerned convict during the period of incarceration/ custody, wipes out / allays all fears of the State. Apex Court directed for premature release of the convicts.

30. The Report of the *Probation Officer* in the said case, is quite similar to the Report relied upon by the Respondents in the present case, regarding the nature of offence, the social impact of the offence etc.

31. Therefore, whereas there cannot be absolutely any doubt with the proposition that all crimes proved must be subjected to commensurate punishment/ sentence as per law, equally true is the fact that all are born

good and circumstances transform/ compel them to take the path of crime; hence, the introduction of a sublime philosophy that reformation should always be the dominant objective as part of the sentencing policy. The above holds true as per established criminal jurisprudence of our country, where the *doctrine of proportionality* and the *theory of deterrence,* have often taken a backseat and the *theory of reformation and rehabilitation has prevailed over the idea of retribution.*

32. Reliance has been placed on *Maru Ram vs. Union of India*, (1981) 1 SCC 107 wherein it has been held that *penal humanitarianism and rehabilitative desideratum warrant liberal paroles, subject to security safeguards, and other humanizing strategies for inmates, so that the dignity and worth of the human person are not desecrated by making mass jails anthropoid zoos. Human rights awareness must infuse institutional reform and search for alternatives*.

33. The development in the aspect of reformation has continued, being the ultimate goal, as is evident from the various Orders passed by the Hon'ble Supreme Court of India in the matter of *In Re: Inhuman Conditions of 1382 Prisons*, W.P. (Civil) No. 406 of 2013 wherein *vide* Order dated 05.02.2016 it was directed that the Model Prison Manual, 2016 be implemented with "*due seriousness and dispatch*".

34. Therefore, the State and the Central Government have to consider the request for premature release reasonably. There has been no change in factual situation in the matter since 25.03.2015, when the SSRB had recommended for premature release of the Petitioner, in its 56th Meeting. The factors which have weighed with the Respondents to reject the prayer for premature release *vide* Orders dated 29.05.2017 and 08.08.2018, were

existing at the time of consideration/ grant of the benefit of premature release on 25.03.2015, itself.

35. There is no other equally efficacious alternative remedy available to the Petitioner for the reliefs prayed for in this Petition, except to approach this Court. Therefore, it is ***prayed*** that the Order dated 29.05.2017 passed by the SSRB in its 59th Meeting and Order dated 08.08.2018 passed at the Special Meeting of the SSRB, rejecting the prayer for premature release of the Petitioner be set aside, and issue directions to the Central Government to consider and thereby issue necessary Orders for the premature release of the Petitioner.

36. ***Short Affidavit has been filed on behalf of Respondent No.1 Union of India*** wherein it is stated that Md. Rashid Khan, a TADA convict was sentenced to life imprisonment under Section 120B IPC, 3 and 5 ES Act, 3(2)(1) TADA Act read with Section 34 IPC and 3(3) TADA (P) Act and is serving his sentence in the State of West Bengal. The said convict requested for his premature release by commuting his sentence.

37. It is stated that Section 432 Cr.P.C. provides the power to suspend or remit sentences. Further, Section 433 Cr.P.C. provides the power to commute sentences, and Section 433A Cr.P.C. provides restriction on powers of remission or commutation in certain cases. Further, Section 435 Cr.P.C. provides the State Government to act after consultation with Central Government, in certain cases.

38. In the light of the aforesaid provisions, **the Government of India, Ministry of Home Affairs while deciding the premature release**, *sought inputs from the Government of West Bengal, which was* ***not recommended*** *as per the Letter dated 20.02.2019 issued by the Government of West*

Bengal, in view of the gravity of the offences, the socio-economic conditions of the life convict and the inputs received by them from the prosecuting agency, i.e. Police, stating that such release may have adverse social impact.

39. Based on the inputs available on record and keeping in view the overall facts and circumstances of the case, *the request of the Petitioner was not accepted by the Ministry of Home Affairs,* as the acts of crime committed by the Petitioner, amounted to offences under TADA and had affected national security.

40. The Petitioner Md. Rashid Khan, has been convicted for various offences which are very serious in nature, and thus, the he is a very serious threat to the society as well as to the country. Thus, the present Petition is not maintainable and deserves to be dismissed being devoid of any cogent reasons.

41. ***Respondent No.2 State of West Bengal in its counter-Affidavit, has*** stated that the Petitioner was admitted to Jail as Under-Trial Prisoner (UTP) on 30.03.1993 in c/w Bowbazar, PS Case No.84 dated 17.03.1993 under Section 120B/436/302 IPC, 3 and 5 Explosive Substances Act and 3 & 4 Terrorist and Disruptive Activities Act.

42. On 31.03.2001 the Petitioner was convicted and sentenced to rigorous imprisonment for life and lodged at Alipore Central Correctional Home. It is stated that the petitioner was the mastermind of the aforementioned case. Pannalal Jaiswara, one of the co-convicts, aged 80 years, had lost his eyesight substantially, during his stay in Correctional Home. He was an associate of the Petitioner, whereas the Petitioner is the mastermind of the Bowbazar Explosion case in Kolkata, West Bengal.

43. ***Pannalal Jaiswara***, co-convict was released prematurely *vide* Order No.980-J/JD/III/2P-38/13 dated 05.03.2014 in exercise of the State's power of granting remission under Section 432 Cr.P.C., on the basis of the recommendation of 54th Meeting of SSRB held on 09.12.2013 before the decision of the Supreme Court of India in W.P. (Crl.) No. 48 pf 2014 dated 09.07.2014 and 23.07.2015, whereby all States were restrained from exercising their power to remit sentences imposed upon inmates incarcerated in Correctional Home/ Jail custody and the procedure of Premature Release, especially of Convicts sentenced under Central Laws.

44. It is admitted that on 25.03.2015, in the 56th Meeting of SSRB, the case of *Premature Release of Petitioner Rashid Khan was recommended*, but further proceedings kept getting adjourned, in view of the Restraint order dated 09.07.2014 passed by the Supreme Court of India in the W.P. (Crl.) No. 48 of 2014.

45. It is stated that in the light of the modified Order dated 23.07.2015 of the Hon'ble Supreme Court of India in W.P. (Crl.) No. 48 of 2014, in a Special Meeting of SSRB all cases which had been recommended by the SSRB, were further reviewed on 10.09.2015. *In the said Meeting, the SSRB rejected the cases of Rashid Khan and Abdul Aziz C.K., both sentenced for life imprisonment under Terrorist and Disruptive Activities Act*

46. It is stated that after the decision of 23.07.2015, the son of the Petitioner had prayed through Letter dated 08.08.2016, the Premature Release of his father. During the pendency of the decision, a Writ Petition under Article 32 Constitution of India came to be filed before the Hon'ble Supreme Court of India being W.P. (Crl.) No. 138 of 2016 praying for premature release of the Petitioner

47. It is stated that on 11.01.2017 Hon'ble Supreme Court of India dismissed the said Writ Petition directing the Government of West Bengal to decide the Representation dated 08.08.2016 within 3 months, and further granted liberty to challenge the decision before the appropriate High Court

48. It is stated that the case of Petitioner Rashid Khan was considered by the SSRB in its 59th Meeting held on 29.05.2017, but his case was rejected yet again by the SSRB in view of the Restraining Order of Hon'ble Supreme Court of India.

49. It is stated that on 12.12.2017 Petitioner filed Writ Petition being W.P. (Crl.) No. 238/2018 before this Court praying for joint and concurrent consideration of his prayer for Premature Release by the Government of India and Government of West Bengal, without challenging the decision of the SSRB dated 29.05.2017.

50. It is stated that while on 25.04.2018, a Comprehensive Report *vide* Memo No. 219/DG-IG/18 dated 25.04.2018 along with all relevant documents, issued by Directorate of Correctional Services, West Bengal was sent to the Department of Correctional Administration, Government of West Bengal for onward transmission to Judicial Department in Government of West Bengal, to take up the matter with the Ministry of Home Affairs, Government of India.

51. It is stated that on 08.08.2018 a Special Meeting of SSRB was convened *vide* Directorate of Correctional Services, West Bengal No. 419(5)/DGIG/18 dated 06.08.2018, read with Home & Hill Affairs Department, Government of West Bengal *vide* No. 1193- I.S.S./2M-147/15 dated 06.08.2018 to consider the case of Petitioner Rashid Khan. After detailed deliberations, the SSRB rejected the prayer for premature release in

view of the strong objection raised by Kolkata Police Authorities considering the social impact, gravity of the offence, and socio-economic condition of the life convict in question. Petitioner has now sought to challenge the decision 29.05.2017 and 06.08.2018 in the present writ petition.

52. *The Petitioner cannot claim negative equality.* The SSRB has rightly rejected the prayer for Petitioner. The Petitioner had the option of challenging the decision dated 29.05.2017 in his previous Writ Petition being W.P. (Crl.) 268 of 2018 filed in December 2017, but chose not todo so. As such, the challenge to Order dated 29.05.2017 cannot be maintained anymore.

53. The liberty granted by this Court 27.08.2019 in W.P. (Crl.) 268 of 2018, cannot be interpreted to include liberty to challenge the decision dated 29.05.2017. There is no specific liberty to challenge the decision dated 29.05.2017. This liberty granted *vide* Order dated 27.08.2019 needs to be interpreted in light of the liberty granted by the Supreme Court of India in W.P. (Crl.) 138 of 2016 dated 11.01.2017.

54. Merely because Union of India has its office in Delhi, the present case will have no jurisdiction. The cause of action to file a case arises only when provisions of the Act or some of them which were implemented, shall give rise to civil consequences to the Petitioner.

55. In the present case, no decision which has been challenged by the Petitioner has taken place within the territorial jurisdiction of this Court and thus, in view of the liberty granted by Hon'ble Supreme Court of India on 11.01.2017, the Petitioner may be permitted to withdraw the case, to approach the appropriate High Court.

56. It is submitted that there are two types of remission or premature release which are available to a convict; *one*, which is according to the Jail Manual, and the *second*, according to the Cr.P.C. In the present case, it appears that the Petitioner is praying for premature release under Section 432 of Cr.P.C., which after due consideration, has been refused by the State Government and the said decision cannot be interfered, in exercise of writ jurisdiction and no premature release can be directed by this Court.

57. Reliance has been placed on *Gopal Vinayak Godse vs. State of Maharashtra*, [(1961) 3 SCR 440) wherein it is stated that sentence for "*imprisonment for life*" ordinarily means imprisonment for the whole of the remaining period of the convicted person's natural life. A convict may earn remission under the Prison Rules, but such remission in absence of order by Appropriate Government remitting the balance of sentence, cannot be ordered in favour of life convicts.

58. In fact, the decision of *Union of India vs. V. Shriharan* (supra) has overruled the decision in *Sangeet vs. State of Haryana*, (2013) 2 SCC 452 and held that there may be special category of sentence which may be beyond the scope of remission.

59. The decision of *Sriharan* (supra) follows the guidelines laid down in *Swamy Shraddananda vs. State of Karnataka*, (2008) 13 SCC 767, in view of which the Petitioner's case was considered duly by the SSRB and rejected.

60. The allegations in the Application and Petition are denied and disputed, except for matters of record. It is stated that the decision of Supreme Court of India in Order dated 09.07.2014 passed in W.P. (Crl.) 48 of 2014, which further came to be modified on 23.07.2015, still holds good.

It is stated that on this issue, Review Petition (Crl) 247-249 of 2014 had been filed on 01.04.2014 in Transfer Cases (Cri) No. 1-3 of 2012 and Curative Petition No. 22-24 of 2015, came to be dismissed on 28.07.2015.

61. In fact, the issue in *Shriharan* (supra) does not in any way interfere with executive power, in considering a case of premature release. The decision of the SSRB dated 08.08.2018 is correct and in accordance with law and the Petitioner cannot challenge the said decision in writ jurisdiction, without specifying grounds which makes it a case amenable for writ petition.

62. It is stated that no hard and fast rule can be applied to the cases of remission of life convicts. The Authority is required to consider various factors including potential adverse impact that may cause to the victim, if the person is released prematurely.

63. In the present case, the Petitioner was convicted under TADA for gruesome Bomb Blast in the city which even today is a cause of trauma for many living in the area and in other parts of city. In fact, keeping these factors in mind, though Respondent no.2 had considered prayer for remission of TADA, accused after the matter of *Sriharan* (supra) was decided, however, anyone who is life convict under TADA, has not been released.

64. The case of the Petitioner was considered in Special Meeting dated 08.08.2018 wherein the SSRB considered the case of Petitioner. Even though there may be recommendation by Correctional Service Authority in favour of Petitioner, but considering the gravity of offence, effect in society, adverse *Police Report against the Petitioner's release*, etc., it refused to grant remission.

65. In the present Petition, the Petitioner has raised grounds which cannot be considered to be grounds requiring judiciary review of the administrative action, which is otherwise, in accordance with the law. It is further stated that there is no legal right to get remission, there is only a right to be considered. The Respondent no.2 has considered the prayer of the Petitioner in accordance with law.

66. It is stated that in view of the decision of Hon'ble Supreme Court of India in *Rajan vs. Home Secretary*, (2019) 14 SCC 114, it is the prerogative of the appropriate government to grant or reject remission.

67. In view of the aforesaid, it is prayed that the Petition deserves to be dismissed with exemplary costs.

68. ***Written Submissions have been filed on behalf of the Petitioner*** wherein it is stated that Petitioner has been in Judicial Custody since 03.03.1993, i.e., for a period of more than 33 years and 07 months as on date. The Petitioner is presently aged 77 Years and is suffering from various old age ailments such as chronic metabolic disease, diabetes, hypertension, benign prostatic hypertrophy, left eye cataract and other age-related ailments.

69. The Petitioner has submitted that his case for premature release be considered in light of the submissions which are being urged in the alternative and without prejudice to each and other.

70. With regard to the ***territorial jurisdiction*** of this Court, it is submitted that since the investigation in the present case is for the conviction under the TADA, a Central Act enacted by the Central Government under the Union List of the Constitution of India, the remission of sentence cannot be

exercised by the State Government, except after consultation with the Central Government.

71. The Petitioner was convicted under the TADA by the Calcutta Court. ***However, the Central Government/ Ministry of Home Affairs, CS Division, New Delhi, rejected the Application of the Petitioner seeking premature release*** and further stated that the State Government cannot remit the sentence of the convict under Section 435 Cr.P.C., without approval and consultation of the Central Government and accordingly, the Ministry of Home Affairs has refused to agree for the release of the Petitioner on account of he being convicted under serious offence of TADA.

72. Reliance has been placed on *Kartar Singh vs. State of Punjab*, (1994) 3 SCC 569 wherein it has been held that TADA is a Central Act under the domain of the Parliament, and *Alchemist vs. State Bank of Sikkim*, (2007) 11 SCC 335 wherein it has been held that even if a small fraction of cause of action arises within the jurisdiction of the court, the Court would have territorial jurisdiction to entertain the Petitioner. Reliance has further been placed on *Rajiv Modi vs. Sanjay Jain & Ors.*, (2009) 13 SCC 241, wherein it has been held that when whole or part of cause of action has arisen in the jurisdiction of a particular court, the said court can certainly take cognizance of the matter.

73. On the ***ground of parity***, it is stated that the co-convict Pannalal Jaysoara faced the same trial in the same incident and was charged for the identical offences as the Petitioner, and was convicted through a common decision, and has been granted premature release on 05.03.2014. Thus, the Petitioner who has spent more than the statutory sentence as a life convict, i.e. approximately 34 years, deserves to be granted premature release.

74. A ***humane approach*** is prayed for considering the conduct and the character of the Petitioner during his entire period of incarceration has been impeccable, spotless, and flawless as is evident from the Character Certificate dated 12.02.2020 issued by the Jail Authorities.

75. Reliance has been placed on *Vijay Kumar Shukla vs. State of NCT of Delhi*, wherein it has been held that 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. Further, it has been held that punishment has to be inflicted, not for the sake of vengeance, for what is done cannot be undone, but for the sake of prevention and reformation.

76. Reliance has further been placed on *Wahid Ahmed vs. State of NCT of Delhi*, wherein one of the factors considered included that three other convicts in virtually identical situations, had been granted the benefit of premature release.

77. Reliance has also been placed on *Vikram Yadav vs. State of NCT of Delhi*, wherein various factors had been considered and it was held that the Petitioner stood substantially reformed and could become a useful member of society.

78. Thus, prayer is made for grant of benefit of premature release to the Petitioner.

79. ***Written Submissions have been filed on behalf of Respondent No.2*** wherein it has raised a foundational and preliminary objection that the present Writ Petition is not maintainable, for want of territorial jurisdiction under Article 226(2) Constitution of India 1950. The entire cause of action

wholly and exclusively arose within the State of West Bengal and not within the National Capital Territory of Delhi.

80. The challenge in the Petition is directed against two administrative decisions of the State Sentence Review Board, Government of West Bengal, namely: (i) the decision dated 29.05.2017 passed in the 59th Meeting of the Board; and (ii) the decision dated 08.08.2018 passed in a Special Meeting of the Board. Both decisions were taken by State authorities located in Kolkata, West Bengal, after considering records, reports and materials belonging entirely to the State of West Bengal.

81. The Petitioner is lodged in the Presidency Correctional Home, Alipore, Kolkata, and all records pertaining to his incarceration, conduct, medical status, police verification, and social impact assessment are maintained, evaluated, and updated entirely within the State of West Bengal. The alleged offence was committed in Kolkata, and the entire criminal trial was also conducted before the competent courts in Kolkata. Thus, every material and essential fact forming the bundle of facts giving rise to the cause of action has arisen exclusively within the territorial jurisdiction of the State of West Bengal.

82. The mere impleadment of the Union of India as a party, does not confer territorial jurisdiction on this Court. The Union of India has not passed any of the impugned orders, nor exercised any statutory or executive function that forms part of the grievance raised in the writ petition. It is settled law that the presence of the Union of India in Delhi, cannot by itself give rise to a cause of action in Delhi when the substantive lis concerns decisions of another State.

83. The Petitioner‘s reliance on the liberty granted by the Supreme Court in its Order dated 11.01.2017 in W.P. (Crl) No. 138/2016, is wholly misconceived. The said liberty was only to challenge the decision of the State authorities before the appropriate High Court. It cannot be interpreted as conferring or expanding territorial jurisdiction of the Delhi High Court. The appropriate High Court is clearly the High Court at Calcutta.

84. The Order of this Court dated 27.08.2019 in WP (Crl.) No.268/2018, also does not assist the petitioner. That Order merely disposed of that petition on the basis of liberty already granted by the Supreme Court, without adjudicating any question of jurisdiction. It did not direct or permit the filing of the subsequent challenge, before this Court. The petitioner‘s interpretation of the Order, is legally unsustainable.

85. The Petitioner‘s attempt to invoke the jurisdiction of this Court on vague or incidental references to the Union of India, or on the basis of past litigation concerning different causes of action, is impermissible. The jurisdiction cannot be created by clever drafting, nor can it be conferred by naming the Union of India as a Respondent when the cause of action is entirely anchored in State decisions.

86. The Petitioner has also attempted to raise issues regarding the release of a *co-convict, namely Pannalal Jaiswara,* who was released under Section 432 Cr.P.C. by the State Government. This, too, is a State decision arising in West Bengal, and has no nexus whatsoever with Delhi. Such arguments do not and cannot, create a cause of action in Delhi. Further, in the same decision, the State Authorities has taken the conscious decision of not releasing the Petitioner being Master-Mind of the entire Bomb Blast.

87. The petitioner previously filed WP (Crl.) No. 268/2018 before this Court but chose not to challenge the decision dated 29.05.2017, at that time. He cannot now revive that stale grievance and attempt to confer jurisdiction upon this Court, by belatedly challenging the same. This conduct underscores the petitioner‘s attempt at forum shopping, which must be firmly rejected.

88. The petitioner‘s reliance on the Constitution Bench judgment in *Union of India v. V. Sriharan @ Murugan, (*2016) 7 SCC 1, is entirely misplaced. The Sriharan judgment lays down the principle that where remission of Sentences is imposed under a Central law, or in cases involving Central agency investigations, or where the Central Government has already taken a definitive view under Sections 432–433A CrPC, the appropriate Government for considering remission, would be the Central Government.

89. The ratio is attracted only where the Central Government has exercised or is required to exercise such statutory power. In the present case, no such occasion arises, as the entire consideration pertains to a conviction under TADA and the petitioner‘s application for premature release was examined exclusively by the State Sentence Review Board, which took an independent view based on adverse police reports, societal impact, and other State-level factors. The Central Government has not taken any view, nor has it passed any decision, that is the subject matter of challenge.

90. It is further submitted that the petitioner‘s attempt to rely on alleged parity with other co-accused stands, wholly negated by subsequent judicial developments. The Division Bench of the High Court at Calcutta, in MAT 861 of 2024 *The State of West Bengal & Ors. vs. Md. Khalid,* by judgment dated 22.09.2025, as subsequently corrected on 25.09.2025, has dismissed

the Petition filed by a co-accused seeking premature release, arising from the same Bowbazar Blast case.

91. Therefore, prayer is made that the present Writ Petition be dismissed at the threshold, with such further orders as this Hon'ble Court may deem fit in the interests of justice.

Submissions heard and record peruse

92. Essentially, the present case pertains to the premature release of the Petitioner Md. Rashid Khan, who has been in judicial custody since 03.03.1993, i.e. for a period of approximately 33 years, while undergoing life imprisonment for the offences under TADA Act read with Section 34 IPC, for a gruesome Bomb Blast in the city of Kolkata, West Bengal.

93. It is well settled that the Indian judicial jurisprudence has adopted a Reformative approach over retribution. The reformative approach is specifically adopted in assessing the case for premature release.

94. In *Jacob George (Dr) vs. State of Kerala*, (1994) 3 SCC 430, the Hon'ble Supreme Court of India has identified the various purposes for which punishment is meted out. It was observed:

> "*17. ...The purpose which punishment achieves or is required to achieve are four in number.* ***First, retribution: i.e. taking of eye for eye or tooth for tooth. The object behind this is to protect the society from the depredations of dangerous persons; and so, if somebody takes an eye of another, his eye is taken in vengeance. This form of protection may not receive general approval of the society in our present state of education and understanding of human psychology…***

18. The other purpose of sentence is preventive. *We are sure that the sentence of imprisonment already undergone would be an eye-opener to the appellant and he would definitely not repeat the illegal act of the type at hand.*

19. Deterrence is another object which punishment is required to achieve. *Incarceration of about two months undergone by the appellant and upholding of his conviction by us which is likely to affect the practice adversely, would or should deter others to desist them from indulging in an illegal act like the one at hand.*

20. Reformation is also an expected outcome of undergoing sentence. *We do think that two months' sojourn of the appellant behind the iron bars and stone walls must have brought home to him the need of his changing the type of practice he had been doing as a homeopath.* ***The reformative aspect of punishment has achieved its purpose, according to us, by keeping the appellant inside the prison boundaries for about two months having enabled him to know during this period the trauma which one suffers in jail, and so the appellant is expected to take care to see that in future he does not indulge in such an act which would find him in prison***."

[Emphasis supplied]

95. Likewise, in *State of Gujarat vs. Hon'ble High Court of Gujarat*, (1998) 7 SCC 392, it has been held that *a reformative approach is now very much intertwined with a rehabilitative aspect to a convicted prisoner*,

although too much stress cannot be laid on it so that basic tenets of punishment altogether vanish:

> "***28.*** *This is the context to consider whether deterrence is the main objective for punishment. Among the conflicting theories for punishment, modern criminologists are highlighting the reformative effect on the punished criminal as the most germane aspect. Jereme Bentham who propounded the theory of deterrence is now considered as the apostle of a conservative old school of thought. The retributive theory of punishment has waned into a relic of primitivity because civilised society has realised that retribution cannot solve the problem of escalating criminal offences. Crime is now considered to be a problem of social hygiene. That modern diagnosis made by criminologists is now causing a sea change to the whole approach towards crime and punishment. The emphasis involved in punishment has now been transposed from retribution to cure and reform so that the original man, who was mentally healthy, can be recreated from the ailing criminal.*"
>
> **[Emphasis supplied]**

96. It has been held that reformation should be the dominant objective of a punishment and during incarceration, every effort should be made to recreate the good man out of a convicted prisoner.

97. In *Maru Ram vs. Union of India*, (1981) 1 SCC 107 with respect to adoption of *humanizing strategies for inmates so that the dignity and worth of the human person are not desecrated*. A reformative approach ought to be taken, and it also ought to be the dominant objective as part of the sentencing policy.

98. The reformative approach instils the principle that the one who has committed the offence is not evil incarnate, but rather an individual who may be reintegrated into society through corrective measures. On the other

hand, retributive approach would amount to a punishment, which is inflicted as an act of vengeance.

99. The premature release, or the remission of the sentence of a convicted person permits their reintegration into society on the basis of certain specific factors including, the loss of propensity to commit crime, the possibility of reclaiming them as a useful member of society and the socio-economic condition of his family.

100. The Supreme Court of India has in *Laxman Naskar v. Union of India*, (2000) 2 SCC 595, has laid five factors for the evaluation of remission or premature release, which are as follows:

> *(i) Whether the offense is an individual act of crime without affecting society at large;*
>
> *(ii) Whether there is any chance of future recurrence and whether the convict has lost potentiality for committing crime;*
>
> *(iii) Whether there is any fruitful purpose of confining this convict anymore;*
>
> *(iv) Whether there is any fruitful purpose of confining this convict anymore; and*
>
> *(v) Socio-economic condition of the convict's family.*

101. The facts of this case may be considered in the light of these principles.

102. ***The first aspect is to consider the nature of crime.*** This is a case of the Bomb Blast was an offence committed alongside known associates, and cannot be considered an individual act of crime. The act had an impact on society at large. However, in the entire Remission Policy, the emphasis is on reformation, rather than retribution. If the gravity of the offence was an

important criterion for considering the remission policy, 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, such as those offences which cause an impact on the national security. However, no such exception has been carved out. Therefore, all other circumstances reflecting the individual reformation, take centre stage and if satisfied, the remission may be granted.

103. Another ***significant aspect*** is that the co-accused Sh. Pannalal Jaysoara, aged about 80 years, suffering from various ailments, has already been granted remission. Though in the matter of remission, *no parity* can be claimed for remission as individual conduct has to be seen, but this fact is significant, in the context of the gravity of offence. If for the same offence, co-convict could be granted remission, gravity of offence cannot be a ground to deny the benefit to the Petitioner, if ha satisfies all the criteria.

a. Moreover, in the 56th SSRB Meeting held on 25.03.2015 the cases of 5 life convicts, including ***the Petitioner***, ***were recommended for premature release after considering:***

(i)The individual reports from Police Authority, Correctional Home Authority and Probation cum-After Care Authority;

(ii) The tenure of imprisonment served by the life convicts;

(iii)Physical and mental condition, age, conduct during incarceration, potentiality of committing crime in future, social acceptance, chances in rehabilitation etc. of the life convicts.

104. Though the State Remission board had recommended remission of the Petitioner in its Meeting on *25.03.2015*, it got caught in the legal rigmarole of the jurisdiction being of State or Centre, leading to a change of heart and

subsequent denial of Remission. There were no change of circumstances, rather it was progressing age; despite which the remission was thereafter, denied without any basis.

105. Second aspect is: *whether there is any chance of future recurrence and whether the convict has lost potentiality for committing crime*.

106. As per the **Character Certificate dated 12.02.2020** granted by the Superintendent, Presidency Correctional Home, the conduct of the Petitioner was considered to be free from any punishment and his behaviour in the Correctional Home '*very very good*', during the period of custody, spanning over 26 years and 10 months. It is stated that he has been very cooperative with the Authorities and co-inmates. It may be considered that the Petitioner has shown conduct which was free from any punishment. His *work done* during detention, included cleaning and gardening in the cell of Alipore Central Correctional Home, Labour at Art School of Alipore Central Correctional Home and day and night watch (*pahara*) at Presidency Correctional Home.

107. Further, ***the Petitioner has been released on parole several times and he has returned to the Correctional Home in due time.*** He had even been granted parole for 93 days, without Police escort, and had reported at the prison within time. There was no Complaint made by any member of any community, against the Petitioner as regards any threat having been extended by the Petitioner to any individual(s), display of any enmity towards any individual(s), or hurting sentiments of any religious community etc., which demonstrates that the apprehension of the Respondents is unfounded.

108. The Petitioner is now aged around 77 years, and suffers from various ailments as described above, including chronic metabolic disease, diabetes, hypertension, benign prostatic hypertrophy, left eye cataract and other age-related ailments.

109. From the aforesaid, it may be derived that there is very low likelihood of the recurrence of offence by the Petitioner.

110. The **third aspect** which arises is whether *there is any fruitful purpose of confining this convict anymore*. As discussed above, there has been a reformative approach taken with respect to convicts in cases of remission rather than a retributive approach. In such a case, to keep the petitioner in jail, when he has already spent over 33 years in prison, may not be fruitful in any manner. The punishment undergone by the Petitioner has sufficiently fulfilled the deterrence sought to be induced in a convict who has committed such grave offence. Finally, considering the age, conduct and ailments suffered by the Petitioner, it may be considered that there would not be a recurrence of such offence by the Petitioner.

111. Even considering the nature of the offence, ***as well as the social impact,*** it may be observed that the offence had been committed in 1993. Considering the good conduct of the Petitioner during the period of incarceration, as demonstrated in his Character Certificate, the age of the convict along with the ailments he is suffering from, there does not appear to be any fruitful outcome of his incarceration. Rather his record in Jail and the Reports clearly indicate a reformed person, entitled to reformative approach.

112. Therefore, the Petitioner having served over 33 years of incarceration including remission for the consequences of his actions and balancing the

individual and societal welfare, it is a fit case where the Petitioner is entitled to remission and is directed to be released forthwith.

113. In the end, it emerges from the Conter-affidavit of Union of India that it had considered the recommendation and denied the remission.

Conclusion

114. Once it is held that the circumstances justify his remission, there is no point in referring the matter back to the Government to grant the remission.

115. The Petition is hereby, **allowed and Remission granted to the petitioner**. The Petitioner be released forthwith, if not wanted in any other case.

116. The Writ Petition is disposed of in the above terms, along with pending Applications, if any.

(NEENA BANSAL KRISHNA)
JUDGE

JUNE 05, 2026/RS