



CGHC010267252026



2026:CGHC:30564-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 386 of 2026**

1 - Mohan S/o Nadi Panka, Aged About 54 Years, R/o Village Udiyapal, Talpara, Chowki Bakawand, Police Station Nagarnar, District- Bastar (C.G.) Present Address Cenral Jail Bastar Place Jagdalpur (C.G.)

... Petitioner**versus**

1 - State of Chhattisgarh Through The Secretary, Department of Home/ Jail, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

2 - Secretary, Department of Law, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

3 - Director General (Jail), The Jail and Correctional Services, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

4 - Chhattisgarh Rajya Dandadesh Punarvilokan Board, Through its Secretary, Office At Raipur, District- Raipur (C.G.)

5 - District Magistrate / Collector, Bastar, Place Jagdalpur (C.G.)

6 - Superintendent of Police, Bastar, Place Jagdalpur (C.G.)

7 - Jail Superintendent , Central Jail Bastar, Place Jagdalpur (C.G.)

... Respondents

(Cause-title taken from Case Information System)

For Petitioner : Ms. Pushpa Dwivedi, Advocate.

For State/Respondents : Mr. Saumya Rai, Deputy Govt. Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

20-07-2026

1. Heard Ms. Pushpa Dwivedi, learned counsel for the petitioner.
Also heard Mr. Saumya Rai, learned Deputy Govt. Advocate,
appearing for the State/respondents.
2. The present writ petition has been filed by the petitioner seeking
the following relief(s):

“10.1 That, this Hon’ble Court be pleased to issue writ of certiorari setting aside the impugned order dated 05-01-2026 (Annexure P-1) passed by the respondent No.1 and may kindly be pleased to direct the respondent state authority to reconsider the application of the petitioner for remission of jail sentence/premature release.

10.2 That, this Hon’ble Court may kindly be pleased to grant any other relief, as it may deems fit and appropriate.”

3. The facts of the case in brief are that, an offence was registered against the petitioner for commission of murder of Kanak Bai and assault on one Kamlu on the land disputes on 17-05-2010 and the FIR was registered on the basis of complaint made by the complainant Duryodhan and during the trial the petitioner was

charged under Section 302 and 307 of Indian Penal Code and after detailed trial, the petitioner was convicted for the offence under Section 307 of the IPC and sentenced for R.I. for 07 years and fine amount of Rs.200/-and in default 06 months additional imprisonment and for the offence under Section 302 of the IPC and sentenced for Life Imprisonment with Rs.100/-fine and in default 06 months additional imprisonment in S.T. No.68/2010 by the judgment of conviction and sentence dated 14-03-2013. Against the judgment of conviction and sentence dated 14-03-2013, the petitioner preferred Criminal Appeal No.463 of 2013 before this Court and the said criminal appeal was dismissed by the Division Bench of this Court vide judgment dated 20-09-2021. The petitioner was serving his sentence in the above conviction and sentence and had served more than 14 years and the case of petitioner was subjected to consideration under the Provision of Rule 358 of Chhattisgarh Prisoner Rules, 1968 (in short 'the Rules,1968') and Section 432 of CrPC. The case of petitioner was considered for remission of his jail sentence and in the process, the respondent No.7 forwarded his recommendation favouring the petitioner to the Presiding Judge for Court's opinion over the remission of the petitioner and the concerned Court has given opinion in favour of the petitioner vide memo dated 09-01-2025. Thereafter, the issue of remission in respect of the petitioner was forwarded to respondent No.4 who relying upon the opinion of District Magistrate and Superintendent of Police

(respondents No.5 and 6) gave recommendation to reject the matter of remission relating to the petitioner and on the basis of such recommendation made by respondent No.4, respondent No.1 has rejected the case of remission relating to the petitioner vide impugned order dated 05-01-2026.

4. Learned counsel for the petitioner submits that the impugned order dated 05-01-2026 passed by the respondent No.1 rejecting the application of petitioner for remission of jail sentence is illegal, against the provision contained under the Rules, 1968 and provision of Section 432 of CrPC. The rejection of the application for remission of jail sentence, though the jail superintendent and the Presiding Judge had given opinion in favour of petitioner merely relying upon the opinion of the respondent No.5 & 6 to the effect that there can be breach of peace on release of petitioner, is completely illegal, the respondent No.1 ought to have relied upon the opinion of the jail superintendent and Presiding Judge and ought to have allowed the remission application. It has been further submitted that the respondent No.1 ought to have considered the conduct of petitioner while serving his jail sentence, which is evident in the recommendation of the Superintendent of Jail where the conduct of petitioner is good. It has also been contended that the respondent No.1 failed to appreciate that the petitioner has served about 20 years in the jail and was 38 years old when he was arrested and is presently 53 years old, when he is in mid age, thus ought to have allowed the

remission application. The respondent No.1 by the impugned order has mechanically without proper appreciation merely based upon the opinion of the respondent No.5 & 6 apprehending breach of peace on release of petitioner has rejected the application of petitioner for remission of jail sentence. Such impugned order is against the provision contained under Rule 358 of the Rules, 1968 and provision of Section 432 of CrPC, Learned counsel for the petitioner further submits that the impugned order is against the judgment rendered by the Hon'ble Supreme Court in the matter of **Rajo Rajwa Rajendra Mandal v. State of Bihar**, reported in (2023) SCC Online SC 1068 and the judgment passed in **Joseph v. State of Kerla** reported in (2023) SCC Online 1211.

5. On the other hand, learned counsel appearing for the State/ respondents while opposing the petition, submits that the impugned order dated 05-01-2026 has been passed strictly in accordance with law and after due consideration of the relevant materials available on record. It is contended that the petitioner has been convicted for a heinous and grave offence under Sections 302 and 307 of the Indian Penal Code, 1860, and therefore, the nature and seriousness of the offence are relevant considerations while examining a case for remission. It is further submitted that the competent authority has considered the opinion of the District Magistrate, the Superintendent of Police, as well as the Presiding Judge, as required under Section 432(2) of CrPC, and upon due evaluation of such inputs, has arrived at a

conscious decision to reject the application for premature release. Hence, no interference is warranted in exercise of writ jurisdiction.

It is further argued that grant of remission is not a matter of right, but lies within the discretionary domain of the appropriate Government, to be exercised on the basis of relevant considerations including public interest and societal impact. In this regard, reliance is placed on **State of Haryana v. Jagdish**, (2010) 4 SCC 216 and **Union of India v. V. Sriharan @ Murugan & Ors.**, (2016) 7 SCC 1, to contend that the power of remission must be exercised cautiously, keeping in view the gravity of the offence and its impact on society. Learned State counsel would submit that merely because the petitioner has completed a certain period of incarceration or earned remission, he does not become entitle to premature release as a matter of right. It is thus submitted that the impugned order does not suffer from any illegality or perversity and the present petition deserves to be dismissed.

6. We have heard learned counsel for the parties and have carefully perused the pleadings, annexures and the material available on record.
7. Upon hearing learned counsel for the parties and on perusal of the material available on record, this Court finds that the impugned order dated 05-01-2026 cannot be sustained in the eyes of law. The rejection of the petitioner's application/case for premature release is founded primarily on adverse opinions of the

District Magistrate and the Superintendent of Police, without any independent application of mind by the competent authority to the relevant statutory and judicially settled parameters governing remission.

8. It is well-settled that while exercising powers under Sections 432 and 433 CrPC, the appropriate Government is required to take a holistic and reasoned decision. The law on the subject has been succinctly laid down by the Hon'ble Supreme Court in **Laxman Naskar v. Union of India**, (2000) 2 SCC 595, wherein the Court identified the guiding factors for grant of premature release. The relevant portion reads:

“The following factors are required to be considered: (i) whether the offence is an individual act of crime without affecting the society at large; (ii) whether there is any chance of future recurrence of committing crime; (iii) whether the convict has lost his potentiality in committing crime; (iv) whether any fruitful purpose is being served by keeping the convict in prison; and (v) socio-economic condition of the convict's family.”

9. In the present case, there is no discussion whatsoever of the aforesaid parameters in the impugned order. The authority has failed to evaluate the petitioner's conduct during incarceration, his reformation, or the likelihood of recidivism.

10. Further, in **Ram Chander v. State of Chhattisgarh & Anr.**, AIR 2022 SC 2017 : (2022) 4 SCR 1103, the Hon'ble Supreme Court has emphasized that the opinion sought under Section 432(2) CrPC. must be based on objective assessment and not merely on the nature of the offence. The Court observed:

“The opinion of the Presiding Judge must reflect due application of mind to the relevant factors and cannot be a mere reiteration of the nature of the offence or the findings recorded at the time of conviction.”

11. Similarly, in **Rajo v. State of Bihar**, 2023 SCC OnLine SC 1068, the Hon'ble Supreme Court reiterated that the opinion of the Presiding Judge or other authorities is only one of the inputs and cannot be treated as determinative. It was held:

“The appropriate Government is required to take an independent decision based on all relevant considerations including post-conviction conduct; the opinion of the Presiding Judge cannot be given primacy if it merely reiterates the circumstances of conviction.”

12. In the present case, the impugned order reflects a mechanical reliance on adverse opinions without independent evaluation. Such an approach defeats the very purpose of remission, which is rooted in the reformatory theory of punishment.

- 13.** The Hon'ble Supreme Court in **State of Haryana v. Jagdish**, (2010) 4 SCC 216 has held:

“The policy of remission is a reformative measure and should be applied in a fair and reasonable manner. The decision must not be arbitrary but based on relevant considerations.”

- 14.** Likewise, in **Union of India v. V. Sriharan @ Murugan & Ors.**, (2016) 7 SCC 1, it has been observed:

“Though the power of remission is discretionary, it must be exercised in a just, fair and reasonable manner, and cannot be exercised arbitrarily or on extraneous considerations.”

- 15.** Applying the aforesaid principles to the facts of the present case, it is evident that the respondent authorities have failed to discharge their statutory obligation. The impugned order is cryptic, non-speaking, and suffers from non-application of mind, as it does not reflect consideration of the petitioner's long incarceration, jail conduct, reformation, or other relevant factors.

- 16.** It is also pertinent to note that the petitioner has undergone more than the requisite period of incarceration and his case was duly recommended by the Jail Superintendent. There is nothing on record to indicate any adverse conduct during incarceration or any likelihood of threat to society upon release.

17. In view of the foregoing analysis and the settled legal position, this Court is of the considered opinion that the impugned order dated 05-01-2026 (Annexure P/1) is arbitrary, unsustainable and liable to be set aside.
18. Accordingly, the writ petition is **allowed**. The impugned order dated 05-01-2026 is hereby **quashed**.
19. Having regard to the fact that the petitioner has undergone substantial period of incarceration, has earned remission, has maintained satisfactory conduct in jail, and there is no material indicating likelihood of recidivism, this Court deems it appropriate to direct the respondent authorities to grant the benefit of premature release to the petitioner.
20. The respondents are, therefore, directed to **release the petitioner forthwith**, if not required in any other case, in accordance with law.
21. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice