



2026:DHC:7268



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

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*Judgment reserved on: 20.08.2026**Judgment pronounced on: 31.08.2026*

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CNR No. DLHC010027352026

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W.P.(CRL) 307/2026 & CRL.M.A. 2951/2026**MOTI ALIAS MOHIT**

.....Petitioner

Through: Ms. Vrinda Bhandari and Ms.
Vanshita Gupta, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Amol Sinha, ASC for State with
Mr. Kshitiz Garg, Advocate.**CORAM:****HON'BLE MR. JUSTICE GIRISH KATHPALIA****J U D G M E N T**

यत किञ्चेदं वरुण दैव्ये जनेऽभिद्रोहं मनुष्याश्चरामसि।
अवित्या यत्तव धर्मा युयोपिम मा नस्तस्मादेनसो देव रीरिषः॥

(Yat kiñcedaṃ varuṇa daivye jane'bhidrohaṃ manuṣyāścarāmasi,
Acityā yattava dharmā yuyopima mā nastasmādenaso deva rīriṣaḥ.)

1. Extracted from the *Rig Ved*, the largest and oldest of the four sacred texts of Hinduism, this verse is a prayer to the Lord Varun (*upholder of cosmic law*) that we be not destroyed by our past errors committed due to ignorance or thoughtlessness and we be cleansed and set free. We are defined by not our worst mistakes, but by our next choices, as there is a history to every halo and a potential to every shadow. To quote Oscar



Wilde: “*No saint is without a past, no sinner is without a future*”. Every darkness carries in it a hope for light and every light holds a memory of darkness. The track connecting this duality of darkness and light is the course track of reformative sentencing. Of course, every wrong deserves a consequence; but every consequence must have a limit lest it became wrong in itself. Kautilya’s *Arthashastra* made references to the elements of reformative policy of sentencing that later came to be known as “remission”. Release of convicted prisoners on sympathetic grounds prior to completion of the term of imprisonment imposed on them has always been a significant part of the ancient Hindu *Dandashastra* (quite similar to the present day concepts of penology) and jurisprudence. There always existed a conscious and consistent thought amongst the ancient thinkers of our country aimed at reformation of criminals in order to achieve larger goal of peace in society by minimisation of crime and criminogenic tendencies. The thinkers across other parts of globe subsequently drew influence from those ancient thoughts of ours and acknowledged that reformatory policies are more productive than deterrent and/or retributory approach to crime and criminal. The present decision is rooted in this philosophy.

2. The petitioner, convicted in case FIR No. 428/2004 of PS Defence Colony for offence under Section 302/380/34 IPC, having undergone imprisonment for a period more than 20 years without remission (*more than 25 years including remission*) as against the awarded punishment of life imprisonment, has assailed and sought quashing of the communication bearing no. F.No.18/62/25/HG/Prisons/3651-3652 dated 27.11.2025, which conveyed the order/decision dated 16.10.2025 of the Sentence Review



Board (SRB), whereby his request for premature release was rejected. It is quite unfortunate that the presently assailed rejection is the 5th rejection of his desperate cry for mercy. More unfortunate is that the 4th rejection dated 10.12.2024 of his request for premature release was set aside by a coordinate bench of this court vide order dated 25.07.2025 and matter was remanded to the Competent Authority for a reconsideration, but once again, his case for premature release has been rejected by way of the order presently impugned.

3. I have heard Ms. Vrinda Bhandari, learned legal aid counsel on behalf of petitioner and Mr. Amol Sinha, learned Additional Standing Counsel on behalf of State. Both of them have very ably and wisely assisted me.

4. Succinctly stated, the circumstances relevant for present purposes are as follows.

4.1 By way of judgment dated 26.02.2010, the petitioner was convicted for offence under Section 302/380/34 IPC and by way of sentence order dated 02.03.2010, punishment of imprisonment for life with fine was imposed on him. The conviction as well as sentence was upheld by a Division Bench of this court by way of judgment dated 31.10.2011 in CRL.A.711/2010. The petitioner preferred a Special Leave Petition (Criminal) 17035/2017, but that also was dismissed by the Supreme Court by way of order dated 07.02.2020. Thence, the conviction for offence under Section 302/380/34 IPC and sentence of life imprisonment against the petitioner has attained finality.



4.2 In the course of his life imprisonment, case of the petitioner for his premature release was considered for the first time by the SRB meeting dated 27.08.2021, but it was rejected on the grounds of the manner, gravity, perversity and heinousness of the crime committed by him, as well as his unsatisfactory jail conduct during his lodgment in the semi-open jail, and possibility of his committing crime again.

4.3 For the second time, case of the petitioner for premature release was considered by the SRB in meeting dated 30.06.2023, but was again rejected for the reasons which are more or less copy-paste of the earlier reasons, the only addition being that he had shown “*non reformative attitude*”. The said order also vaguely added the word “*etc.*” as the reason for rejection.

4.4 The third occasion for consideration of premature release of the petitioner came up before the SRB in meeting dated 23.02.2024, but again for same reasons as mentioned above, his case was rejected. This time, additionally the SRB also recorded its opinion that the crime committed by the petitioner was brutal and affected society at large, so releasing him prematurely would not be in the interest of society.

4.5 Then came the fourth occasion for the SRB consideration of his premature release in the meeting dated 10.12.2024, but once again, it was rejected observing that the petitioner had committed murder of two persons with knife blows and had stolen the belongings of the deceased. It was also observed by SRB this time that in view of punishment awarded to the petitioner during his confinement in semi-open jail, it appeared that he had



not lost his potential to commit crime.

4.6 By way of W.P.(CRL) 937/2025, the petitioner challenged the said fourth rejection of his case for premature release. By way of order dated 25.07.2025, a coordinate bench of this court allowed the writ and remanded the matter to SRB for reconsideration on the basis of guidelines laid down by another coordinate bench of this court in the case titled: ***Asif Alias Naeem v. State of NCT of Delhi & Anr.***, W.P. (Crl.) No. 1/2025.

4.7 On the basis of the said order dated 25.07.2025 of the coordinate bench of this court, case of the petitioner for premature release was again placed before the SRB along with 33 more cases seeking premature release. But once again, case of the petitioner for premature release was rejected by SRB in its meeting dated 16.10.2025 by way of order/minutes, impugned in the present writ petition.

5. It would be apposite to extract the relevant portion of the impugned order/minutes of meeting dated 16.10.2025 of the SRB, which is as follows:

“ Item No. 50: The case of Moti @ Mohit s/o Sh. Dhan Bahadur – (Age-41 Yrs.)

(i) Background:

This case has been put up in compliance to the order dated 25.07.2025, passed by the Hon'ble High Court of Delhi in W.P.(Crl.) No. 937/2-25 in the matter titled as Moti @ Mohit versus State, NCT of Delhi.

(ii) Eligibility conditions:

Only after undergoing imprisonment for 20 years including remission. This case has been considered under the policy/order dated 16.07.2004 issued by the Govt. of NCT of Delhi i.e. policy



that was existing on the date of conviction.

(iii) Sentence details:

Moti @ Mohit S/o Sh. Dhan Bahadur is undergoing life imprisonment in case FIR No. 428/2004, u/s 302/380/34 IPC, P.S. Defence Colony, Delhi for murder of two persons & theft articles.

(iv) Deliberation:

As on 20.08.2025, the convict has undergone imprisonment of 20 years, 07 months & 20 days in actual and 24 years, 05 months & 23 days with remission. He has availed Parole 07 times and Furlough 13 times.

As per record, the conduct of the convict is found to be unsatisfactory being punishment dated 20.01.2018 for recovery of 02 gram tobacco in Semi Open jail since then the convict was returned back to closed prisons.

The Board considered the latest reports received from Police Social Welfare Department and took into account all the facts and circumstances of the case. As per the Police Report dated 27.02.2024, the premature release of the convict is not recommended.

After considering all the facts and circumstances under which the offence was committed, i.e. murder of two persons and theft articles, nature/gravity and perversity of the crime, age of the convict, the Board is of the view that the propensity to commit crime again by the convict cannot be ruled out. The Board cannot merely look at the convict's benefit, but the effect of the decision on the society as a whole cannot be ignored.

It is also observed by the Board that the Hon'ble Supreme Court has categorically held in Swamy Shraddananda (2008) 13 SCC 767.

"...the power of executive clemency is not only for the benefit of the convict but what has to be borne in mind is the effect of the decision on the family of the victims, society as a whole and the precedent which it sets for the future. Thus, the exercise of power depends upon the facts and circumstances of each case and has to be judged from case to case"

(v) Recommendation:

The Board after detailed deliberation and discussion, as outlined above, unanimously decided to REJECT premature release of convict Moti @Mohit S/o Sh. Dhan Bahadur at this stage."



6. Against the above backdrop, I heard learned counsel for both sides, who took me through the relevant judicial pronouncements in the course of their marathon arguments.

6.1 Ms. Vrinda Bhandari learned counsel for petitioner, after taking me through the above circumstances contended that the manner in which case of the petitioner for premature release was rejected repeatedly shows complete non-application of mind by the SRB, insofar as each of the rejection order is practically copy-paste of the earlier order. It was contended that such consideration amounts to no consideration at all. Learned counsel took me through the report dated 10.10.2025 submitted before the superintendent of the concerned jail by the Probation Officer of Tihar Jail and pointed out that nothing at all adverse against the petitioner was recorded therein, so case of the petitioner ought not to have been rejected by the SRB. Further, taking me through the detailed police verification report dated 28.08.2025, learned counsel for petitioner reiterated that even according to the said report, there was nothing adverse against the petitioner, so his case ought not to have been rejected by the SRB. Also referring to the Nominal Rolls dated 19.02.2026, learned counsel pointed out that the petitioner was repeatedly released on furlough during the period of his incarceration and he always surrendered in time, without any allegation of misuse of liberty. According to learned counsel, the petitioner, currently undergoing life imprisonment for his first and last crime is now a reformed individual. Learned counsel also took me through medical records of daughter of the petitioner to show that from the age of 03 months, she is suffering with a congenital ailment and needs extensive medical care, which can be considered as one of the special



grounds for releasing the petitioner.

6.2 On the other hand, Mr. Sinha learned Additional Standing Counsel (ASC) strongly supported the impugned order of rejection of premature release of the petitioner and opposed the present petition. In reference to a previous judgment authored by this bench in the case of *Vikram Yadav vs State Govt. of NCT of Delhi*, 2025:DHC:4946, learned ASC also informed that the issue of reforms required in composition and functioning of the SRB is now under consideration before a Division Bench of this court. Taking me through the above extracted deliberations carried out by the SRB in case pertaining the petitioner, it was emphasised by learned ASC that admittedly the petitioner during his life imprisonment was awarded a jail punishment in the year 2018 for which he was transferred from semi-open jail to closed jail, which punishment, being a step in regression, lends credence to the satisfaction of the SRB that the petitioner is presently incorrigible, so does not deserve to be released back into the society. It was submitted by learned ASC that while dealing with such cases the court ought not to get carried away on the basis of misplaced sympathies in favour of the prisoner, since the court cannot ignore the interest of the society at large. Learned ASC emphatically submitted that the exercise of premature release is in the domain of the executive branch of the State and the judicial branch of the State cannot usurp that authority by interfering with the decisions of the SRB. The learned ASC supported the decision of the SRB, also pointing out that the petitioner was held guilty of a double murder and was arrested from Indo-Nepal border when he was trying to flee away, and that shows the dangerous criminal behaviour of the petitioner. Finally, the learned ASC



contended that even if this court is not satisfied with correctness of the impugned order, the only course available is to direct reconsideration by SRB and this court shall not direct release of the petitioner, because the matter of release of the petitioner is only the executive discretion.

6.3 In rebuttal arguments, learned counsel for petitioner contended that the stream of judicial precedents shows an increasing view of the courts in favour of directing premature release of the prisoner instead of remanding back for reconsideration. It was also argued that since the petitioner has already suffered the earlier round of the so-called reconsideration, which remains non-consideration in the eyes of law, this is a fit case to direct forthwith release of the petitioner, instead of making him shuttle between the SRB and this court.

7. In support of their respective arguments, both sides referred to certain judicial precedents, which are as follows: *Vijay Kumar Shukla vs State NCT of Delhi and Anr.*, 2024 SCC OnLine Del 7805; *Hari Singh vs State of NCT of Delhi and Ors.*, 2023 SCC OnLine Del 7118; *Sushil Sharma vs State*, 2018 SCC OnLine Del 13277; *State of Haryana and Ors. vs Jagdish*, (2010) 4 SCC 216; *Joseph vs State of Kerala and Ors.*, 2023 SCC OnLine SC 1211; *Laxman Naskar vs Union of India*, (2000) 2 SCC 595; *Ram Chander vs State of Chhattisgarh and Anr.*, (2022) 12 SCC 52; *Laxman Naskar (Life Convict) vs State of W.B. and Anr.*, (2000) 7 SCC 626; *Shashi Shekhar @ Neeraj vs State of the NCT of Delhi & Ors.*, 2016 SCC OnLine Del 6284; *Union of India vs V. Sriharan alias Murugan & Ors.*, (2016) 7 SCC 1; *Satish @ Sabbe vs The State of Uttar Pradesh*, SLP



(CRL). No. 8326 of 2019; *Wahid Ahmed vs State of NCT of Delhi*, 2022:DHC:3690; *Zafar Ul Islam vs State of NCT of Delhi*, W.P.(CrI.) No.2518/2022; *State of Haryana & Ors. vs State of Daya Nand*, [SLP (CRL) No. 10687/2022] and *Harpreet Singh vs State (Govt. of NCT of Delhi)*, W.P.(CrI.) 463/2025. All these judicial pronouncements lay down and reiterate same principles of law and same parameters, which have to be kept in mind by the SRB and the court while dealing with the matter of premature release of a prisoner. That being so, in the interest of brevity, the present discussion refers to only a few and not each of those judgments.

7.1 In the case of *Vijay Kumar Shukla* (supra), referred to by both sides, this court held thus:

“29. Each time the SRB rejects the plea, in a pithily drafted, cursorily articulated proforma paragraph, not only is each of the rejections almost a copy-paste of an earlier rejection, but it lacks any embellishment or modicum of assessment or reasoning beyond the proforma factors on which SRB has right to reject. What is, therefore, before this Court are a set of previous rejections and the impugned rejection of 2023 parroting the same reasons.

30. The Court, therefore, faces two options: either to be persuaded by these repeated rejections and conclude that there must be a rationale underlying the SRB's consistent stance, or to evaluate whether the SRB has genuinely applied logic, rationality, reasonableness, and proper application of mind in accordance with the rules and guidelines it is bound to follow. The second option is prompted by the petitioner's 26-year-long journey being incarcerated, as noted above, which reveals an apparent and significant discrepancy between that journey and the reasons cited by the SRB for its rejections. There seems to be an apparent and obvious mismatch between the elements of that journey and the reasons for the rejection by the SRB.

31. The underlying theme, fulcrum and raison d'être of



premature release are fortunately well articulated in Rule 1244 Chapter XX, of DPR (which is extracted in paragraph 17 above). Premature release is achieving a balance in ensuring 'reformation, rehabilitation, and integration into society of an offender on one hand and protection of society on the other'. For the purposes of this assessment, as stated by the Rule, is the conduct behaviour and performance of prisoners while in prison. The SRB is undoubtedly a recommendary body as per Rule 1247 (as extracted in paragraph 17 above). The body is constituted by Members of the Executive, District Judiciary, Police and Prison Authorities. The SRB, in achieving this recommendation, exercises 'discretion'.

32. However, the exercise of this discretion is to be based on relevant factors, which inter alia are whether the convict has lost his propensity for committing crime considering his overall conduct, possibility of reclaiming the convict as a useful member of society; and socio-economic condition of the convict's family.

33. These aspects form part of a comprehensive note prepared by the Superintendent of Prisons as per Rule 1256(ii) (extracted in paragraph 17 above), recommendation by Deputy Commissioner of Police. Superintendent of Police, as per Rule 1256(iv); report of Chief Probation Officer as per Rule 1256(v). On the basis of these three reports, the Inspector General (Prisons) is to make his recommendation. All this is finally funnelled to the SRB, which has to apply guidelines, general or special, laid down by the Government or by the Courts. **A cautionary note has been ensconced in Rule 1257(c) for the SRB to not decline premature release "merely on the ground that the police have not recommended this release", as also not rejecting it merely because it has been rejected on one or more occasions earlier.** The decision of the SRB is mandated to be through 'speaking order in writing'.

37. Even if one were to ignore the brevity of articulation by the SRB, as merely for administrative convenience, there's complete opacity in whether the cautionary elements of Rule 1257(c) which ought to stare in the face of SRB, previous rejections, lack of police recommendation and welfare of the prisoner were considered and used as reasons ultimately leading to a negative recommendation.

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43. In **Sushil Sharma** (*supra*), Division Bench of this Court categorically held that SRB cannot state that they are not bound by the rules and guidelines to which they themselves owe their existence. Therefore, there is a necessity for due and proper application of mind, legal justification and lawful sanction.

44. The Supreme Court in **Joseph** (*supra*) highlighted “typecasting convicts through guidelines which are too flexible based crime committed in distant past resulting in a danger of overlooking the reformatory potential of each individual convict”. In this regard, the Court noted that insisting on continued punishment without considering the transformation of a prisoner undermines rationality and fairness. **Persistence in penalizing someone who has reformed and no longer aligns with their past actions disregards the reality of personal change and violates Article 14 of the Constitution. A rigid adherence to guidelines that ignore positive conduct and rehabilitation perpetuates despair, denies the value of good behaviour, and reflects an unyielding societal harshness, negating the very principle of reformatory justice...**

45. As rightly pointed out, “**propensity for crime**” cannot be a random subjective assessment but has to be based on objective factors. The objective factors are quite well ensconced in the eligibility conditions, of a convict being in a semi-open prison and even more stringent requirements to qualify for an open prison. If those factors are met in this case, the committing to a semi-open/open prison is done, and the ‘report card’ of the convict continues to be good, in the opinion of the Court would be supremely critical factors that ought to imbue any assessment for premature release.”

(emphasis supplied)

7.2 In the case of **Gurvinder Singh vs State (Govt. Of NCT of Delhi)**, 2024 SCC OnLine Del 4721, this court held thus:

“9. A perusal of the impugned order shows that the SRB while rejecting the premature release of the petitioner has only considered- (i) the facts and circumstances under which the crime was committed, (ii) the gravity, perversity and nature of the crime, (iii) unsatisfactory jail conduct, and (iv) the fact that the police opposed the premature release. However, **it is**



noted that the SRB has to consider other relevant factors as enumerated in Para 3.1 of the policy dated 16.07.2004 and Rule 1251 of the Delhi Prison Rules, 2018 apart from considering the circumstances in which the crime was committed, as well as, the gravity, perversity and nature of crime.

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11. Likewise, Rule 1251 of Delhi Prison Rules reads thus:

1251. Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr. P.C. shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to recommend to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:—

- a) Whether the convict has lost his potential for committing crime considering his overall conduct in Jail during the 14 year incarceration.*
- b) The possibility of reclaiming the convict as a useful member of the society and*
- c) Socio-Economic condition of the Convict's family.*

12. However, in the impugned order, there is no discussion on the aspects viz., (i) whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 year incarceration, (ii) the possibility of reclaiming the convict as a useful member of the society, and (iii) the socio-economic condition of the convict's family. It is settled law that if the administrative power has been exercised without considering, or without application of mind to, the relevant factors, the exercise of power will be regarded manifestly erroneous. This being the position, the impugned order cannot be sustained."

(emphasis supplied)



7.3 Another judicial precedent relied upon by both sides was in the case of ***Hari Singh*** (supra), wherein this court held thus:

*“12. The factors for consideration while deciding the application of a convict for premature release, as laid down by the Hon'ble Supreme Court in **Laxman Naskar** (supra) and which have been reiterated in **State of Haryana v. Jagdish**, (2010) 4 SCC 216, are:-*

- (i) whether the offence affects the society at large;*
- (ii) the probability of the crime being repeated;*
- (iii) the potential of the convict to commit crimes in future;*
- (iv) if any fruitful purpose is being served by keeping the convict in prison; and*
- (v) the socio-economic condition of the convict's family.*

15. It is well established that when the convict has undergone substantial and long period of incarceration, the eventual purpose of imprisonment, in all circumstances, including the most serious offences, is reformatory and not retributive. To deny the benefit of remission to a convict, solely on the basis of the nature of crime committed, and without appreciating other parameters including but not limited to the convict's age, health and socio-economic condition and family relations, his post-conviction conduct, jail conduct etc., would not serve the ends of justice. It is of ultimate importance that the societal interest must be balanced with the rights of the convict and resorting to mechanical and clerical approach in dealing with the application of premature release where the convicts have undergone long periods of incarceration which will result in defeating the said purpose.”
(emphasis supplied)

7.4 The learned ASC referred to the following observations of the Supreme Court in the case of ***Laxman Naskar*** (supra):

“3. It is a settled position of law that life sentence is nothing less than lifelong imprisonment and by earning remissions a life convict does not acquire a right to be released prematurely; but if the Government has framed any rule or made a scheme for early release of such convicts then those rules or schemes will have to be treated as guidelines for exercising its power under Article 161 of the Constitution and



*if according to the government policy/instructions in force at the relevant time the life convict has already undergone the sentence for the period mentioned in the policy/instructions, then **the only right which a life convict can be said to have acquired is the right to have his case put up by the prison authorities in time before the authorities concerned for considering exercise of power under Article 161 of the Constitution. When an authority is called upon to exercise its powers under Article 161 of the Constitution that will have to be done consistently with the legal position and the government policy/instructions prevalent at that time.***”

7.5 In the case of **Satish @ Sabbe** (supra), while dealing with the issue of premature release of a convict facing life imprisonment and fine for the offence of kidnapping for ransom, the Supreme Court held thus:

“17. A perusal of the Government Orders displays that the statutory mandate on premature release has been completely overlooked. The three-factor evaluation of (i) antecedents (ii) conduct during incarceration and (iii) likelihood to abstain from crime, under Section 2 of the UP Prisoners Release on Probation Act, 1938, have been given a complete go-by. These refusals are not based on facts or evidence, and are vague, cursory, and merely unsubstantiated opinions of state authorities.

*18. It would be gainsaid that **length of the sentence or the gravity of the original crime can't be the sole basis for refusing premature release. Any assessment regarding predilection to commit crime upon release must be based on antecedents as well as conduct of the prisoner while in jail, and not merely on his age or apprehensions of the victims and witnesses.** As per the State's own affidavit, the conduct of both petitioners has been more than satisfactory. They have no material criminal antecedents, and have served almost 16 years in jail (22 years including remission). Although being about 54 and 43 years old, they still have substantial years of life remaining, but that doesn't prove that they retain a propensity for committing offences. The respondent-State's repeated and circuitous reliance on age does nothing but defeat the purpose of remission and probation, despite the petitioners having met all statutory requirements for premature release.*

19. Indeed, the petitioners' case is squarely covered by the ratio



laid down by this court in *Shor v. State of Uttar Pradesh* [2020 SCC OnLine SC 626], which has later been followed in *Munna v. State of Uttar Pradesh* [Order dated 21.08.2020 in WP(Crl) 4 of 2020], the relevant extract of which is reproduced as under:

“A reading of the order dated 22.01.2018 shows that the Joint Secretary, Government of U.P. has failed to apply his mind to the conditions of Section 2 of the U.P. Act. Merely repeating the fact that the crime is heinous and that release of such a person would send a negative message against the justice system in the society are factors de hors Section 2. Conduct in prison has not been referred to at all and the Senior Superintendent of Police and the District Magistrate confirming that the prisoner is not “incapacitated” from committing the crime is not tantamount to stating that he is likely to abstain from crime and lead a peaceable life if released from prison. Also having regard to the long incarceration of 29 years (approx.) without remission, we do not wish to drive the petitioner to a further proceeding challenging the order dated 22.01.2018 when we find that the order has been passed mechanically and without application of mind to Section 2 of the U.P. Act.” [emphasis supplied]

20. It seems to us that the petitioners’ action of kidnapping was nothing but a fanciful attempt to procure easy money, for which they have learnt a painful life lesson. **Given their age, their case ought to be viewed through a prism of positivity. They retain the ability to reintegrate with society and can spend many years leading a peaceful, disciplined, and normal human life. Such a hopeful expectation is further concretised by their conduct in jail.** It is revealed from the additional affidavit dated 05.09.2020 filed by Anita @ Varnika (wife of Vikky) that during the course of his incarceration in jail he has pursued as many as eight distance-learning courses, which include (i) passing his Intermediate Examination, (ii) learning computer hardware, (iii) obtaining a degree in Bachelor of Arts; as well as numerous certificates in (iv) food and nutrition, (v) human rights, (vi) environmental studies. Vikky’s conduct shines as a bright light of hope and redemption for many other incarcerated prisoners. Compounded by their roots and familial obligations, we believe it is extremely unlikely that the petitioners would commit any act which could shatter or shame their familial dreams.



21. In the present case, considering how the petitioners have served nearly two decades of incarceration and have thus suffered the consequences of their actions; a balance between individual and societal welfare can be struck by granting the petitioners conditional premature release, subject to their continuing good conduct. This would both ensure that liberty of the petitioners is not curtailed, nor that there is any increased threat to society. Suffice to say that this order is not irreversible and can always be recalled in the event of any future misconduct or breach by the petitioners.”

(emphasis supplied)

7.6 In the case of **V. Sriharan** (supra), relied upon by learned ASC, the Supreme Court held thus:

“74. Therefore, in the present juncture, when we take judicial notice of the crime rate in our country, we find that criminals of all types of crimes are on the increase. Be it white-collar crimes, vindictive crimes, crimes against children and women, hapless widows, old-aged parents, sexual offences, retaliation murder, planned and calculated murder, through paid assassins, gangsters operating in the developed cities indulging in killing for a price, kidnapping and killing for ransom, killing by terrorists and militants, organised crime syndicates, etc. are the order of the day. While on the one side peace loving citizens who are in the majority are solely concerned with their peaceful existence by following the Rule of Law and aspire to thrive in the society anticipating every protection and support from the governance of the State and its administration, it is common knowledge, as days pass on it is a big question mark whether one will be able to lead a normal peaceful life without being hindered at the hands of such unlawful elements, who enjoy in many cases the support of very many highly placed persons. In this context, it will be relevant to note the precepts of law which are : to live honourably, to injure no other man and to render everyone his due. There are murders and other serious offences orchestrated for political rivalry, business rivalry, family rivalry, etc., which in the recent times have increased manifold and in this process, the casualty are the common men whose day-to-day functioning is greatly prejudiced and people in the helm of affairs have no concern for them. Even those who propagate for lessening the gravity of imposition of severe punishment are unmindful of such consequences and are only keen to indulge in propagation of rescuing the convicts from



being meted out with appropriate punishments. We are at a loss to understand as to for what reason or purpose such propagation is carried on and what benefit the society at large is going to derive.

...

...

94. As far as the argument based on ray of hope is concerned, it must be stated that however much forceful the contention may be, as was argued by Mr Dwivedi, the learned Senior Counsel appearing for the State, it must be stated that such ray of hope was much more for the victims who were done to death and whose dependants were to suffer the aftermath with no solace left. Therefore, when the dreams of such victims in whatever manner and extent it was planned, with reference to oneself, his or her dependants and everyone surrounding him was demolished in an unmindful and in some cases in a diabolic manner in total violation of the Rule of Law which is prevailing in an organised society, they cannot be heard to say only their rays of hope should prevail and kept intact. For instance, in the case relating to the murder of the former Prime Minister, in whom the people of this country reposed great faith and confidence when he was entrusted with such great responsible office in the fond hope that he will do his best to develop this country in all trusts, all the hope of the entire people of this country was shattered by a planned murder which has been mentioned in detail in the judgment [State v. Nalini, (1999) 5 SCC 253 : 1999 SCC (Cri) 691] of this Court which we have extracted in para 157. Therefore, we find no scope to apply the concept of ray of hope to come for the rescue of such hardened, heartless offenders, which if considered in their favour will only result in misplaced sympathy and again will be not in the interest of the society. Therefore, we reject the said argument outright."

In the said case, the Supreme Court also elaborately discussed the scope of judicial intervention on the aspect of remission and held thus:

"105. We, therefore, reiterate that the power derived from the Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of



incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court.

106. Viewed in that respect, we state that the ratio laid down in Swamy Shraddananda (2) [Swamy Shraddananda (2) v. State of Karnataka, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113] that a special category of sentence; instead of death; for a term exceeding 14 years and put that category beyond application of remission is well founded and we answer the said question in the affirmative. We are, therefore, not in agreement with the opinion expressed by this Court in Sangeet v. State of Haryana [Sangeet v. State of Haryana, (2013) 2 SCC 452 : (2013) 2 SCC (Cri) 611] that the deprivation of remission power of the appropriate Government by awarding sentences of 20 or 25 years or without any remission as not permissible is not in consonance with the law and we specifically overrule the same.”

7.7 The case of **Daya Nand** (supra) was relied upon by learned ASC in support of his contention that this court can at the most direct reconsideration, but cannot direct premature release while exercising the power of judicial review. But in that case, the distinctive feature was that the concerned authority did not even decide the issue of premature release one way or the other despite the convict having undergone 12 years and 09 months of actual imprisonment. Besides, in that case the Supreme Court opted also not to interfere with the premature release ordered by the High Court, since the convict stood released 09 months back, so no purpose would be served by sending him back in jail. In other judicial precedents, namely **Ram Chander** (supra), **Laxman Naskar** (supra), **Rajan** (supra) and others, relied upon by learned ASC also, it was laid down that while the court can review the decision of the government in order to determine whether the decision was arbitrary, but the court cannot usurp the power of the



government and grant remission itself; and that if the court finds that exercise of power by the executive was arbitrary, the concerned authority may be directed to reconsider the case.

7.8 In the case of *Asif Alias Naeem* (supra), which was relied upon by the coordinate bench of this court while remanding the matter of the present petitioner to SRB, the said coordinate bench held thus:

*“17. The legal position admits of no dispute that no convict can demand remission or premature release as a matter of right. However, **once the executive frames a policy and the prison rules prescribe a structured process, the convict acquires a right to a fair, meaningful, and non-arbitrary consideration under that framework. The discretion is broad, but it is not unstructured. It is confined by the governing policy, the prison rules, and the discipline of reasons.***

*18. The policy dated 16th July, 2004, makes two features explicit. First, eligibility after the stipulated period of actual incarceration does not translate into automatic release, and the SRB retains discretion. Second, the discretion must be exercised by weighing the circumstances of the crime together with other relevant factors, including whether the convict has lost the potential for committing crime, the possibility of rehabilitation, and the socio-economic condition of the family. The policy also requires a comprehensive note dealing with the family and social background, the circumstances of the offence, prison conduct, and a reasoned recommendation. Thus, eligibility triggers consideration. It does not guarantee release. At the same time, **the policy does not permit the SRB to treat the label of the offence as a veto that makes the rest of the inquiry redundant.***

*19. The Delhi Prison Rules, 2018 reinforce the same approach. Rule 1244 states that premature release is anchored in reformation, rehabilitation, and reintegration, while ensuring protection of society, and it recognizes that conduct and performance in prison bear directly on rehabilitative potential. **The Rules also contemplate that the SRB decision should be a speaking one, and caution against treating the police view as determinative in isolation.***



20. ***This insistence on reasons is not a cosmetic requirement.*** The Supreme Court has repeatedly held that recording reasons is an essential component of fairness in administrative and quasi-judicial decision-making. ***A conclusion without an intelligible rationale disables scrutiny and breeds arbitrariness.*** In matters of premature release, the relevant considerations, such as the circumstances of the offence, antecedents, conduct in custody, and the likelihood of reoffending, are not mere formalities to be mechanically recorded. They constitute the foundation of the evaluative exercise.

21. The same discipline appears in ***Satish @ Sabbe v. State of Uttar Pradesh***, where the Supreme Court cautioned against mechanical refusals that ignore statutory or policy criteria and recognized that a constitutional court may step in where the executive repeatedly fails to discharge its obligation of meaningful consideration.

22. ***The gravity of the offence, even when undeniable, cannot become the single note refrain that drowns out every other mandatory consideration.*** In ***Satish @ Sabbe***, the Supreme Court cautioned that “gravity of the original crime cannot be the sole basis” for refusing premature release, and that any assessment of future criminality must be grounded in antecedents and conduct during incarceration, rather than vague apprehensions.”

(emphasis supplied)

7.9 So far as the argument advanced on behalf of State that life imprisonment means imprisonment for life or imprisonment till last breath and not for a shorter period except where executive clemency is granted, the said argument was considered in a series of judicial pronouncements and traversing through the same, the Supreme Court most recently in the case of ***Ramasrey @ Fakkad vs State of Uttar Pradesh***, 2026 INSC 764 held thus:

“12.The paragraphs reproduced by us above clearly stipulate that when a sentence awarded is for imprisonment for life without the categorical addition of ‘without remission’, the power of the State under Section 432 Cr.PC is unaffected and such an application would be maintainable. In those select few



cases where the ‘without remission’ condition is utilised, which is obviously done so, in the attending facts of that case keeping in view the gravity of crime, nature of offence and the fact that reduction of the sentence therein to an ‘ordinary sentence’ would be unjust, the statutory right being denuded, cannot be termed to be offensive to the Constitution.”

7.10 In the most recent ruling while dealing with the scope of consideration of premature release and powers of judicial review, the Supreme Court in the case of **Rohit Chaturvedi vs State of Uttarakhand & Ors.**, 2026 SCC OnLine SC 865 held thus:

“5.4.....In such circumstances, remanding the matter to the very authority which has already taken a firm view against the petitioner would amount to an empty formality. The controversy before this Court, therefore, appears not to be one of absence of consideration, but the legality and sustainability of the conclusion already reached. In that light, remand may not be directed mechanically where it would not serve any substantive purpose. Considering that the petitioner has already undergone more than twenty-two (22) years of incarceration and all relevant material is already before this Court, relegating the petitioner to another round of administrative consideration would only prolong the proceedings unnecessarily. Sending the matter to the very same authority for reconsideration would be futile and not serve the interests of justice, particularly when the basis of that rejection is already fully articulated before this Court on merits. We, therefore, proceed to examine the case on merits.

...

...

6.4. In Satish v. State of U.P., (2021) 14 SCC 580 (“Satish”), this Court held that neither the length of the sentence nor the gravity of the original offence can, by themselves, constitute the sole basis for refusing premature release. Any assessment regarding the likelihood of reoffending upon release must instead be founded on the antecedents of the prisoner and his conduct while in custody, rather than merely on age or apprehensions expressed by victims or witnesses. The Court further observed that although remission cannot be claimed as a matter of right, once the appropriate legislature has enacted a law governing remission, the executive cannot indirectly defeat



or subvert its mandate. It was also held that **where executive authorities fail to discharge their statutory obligations despite judicial directions, a Constitutional Court exercising powers of judicial review may itself intervene and secure compliance through the issuance of a writ of mandamus.** Having regard to the fact that the petitioners in Satish had undergone nearly two decades of incarceration and had suffered the consequences of their actions, the Court sought to strike a balance between individual reformation and societal welfare by directing their conditional premature release, subject to continued good conduct. Consequently, the State Government was directed to release the prisoners on probation under Section 2 of the U.P. Prisoners Release on Probation Act, 1938 within two weeks.

...

...

8.4. Fourthly, the petitioner's case deserves to be considered in light of the reformatory theory underlying the modern criminal justice system. The object of punishment is not merely retribution, but also the reformation and rehabilitation of the offender so as to enable his eventual reintegration into society. In *Mohd. Giasuddin v. State of A.P.*, (1977) 3 SCC 287 : 1977 SCC (Cri) 496, Krishna Iyer, J., while emphasizing the reformatory philosophy of sentencing, quoted George Bernard Shaw's observation that: "If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and men are not improved by injuries." The learned Judge also observed that modern penology regards sentencing as a process of reshaping a person who has deteriorated into criminality and that society itself has a vital stake in the rehabilitation of the offender as a means of social defence. The reformatory approach to punishment, therefore, constitutes an integral component of criminal jurisprudence and remission policies are founded upon this principle. In the present case, the petitioner has undergone more than twenty-two (22) years of incarceration and his custody certificate records that his conduct during imprisonment has been good. The recommendation of the State Government for his premature release also indicates that the petitioner's conduct and rehabilitation have been found satisfactory by the competent authorities. Continued incarceration in such circumstances would run contrary to the reformatory object underlying remission and premature release policies particularly, when his co-accused has already been released."

(emphasis supplied)



8. Falling back to the present case, as held in the case of **Vikram Yadav** (supra) *{in which I had the occasion to elaborately understand and explain the scope similar to the present proceedings}*, the parameters to test such orders have to be drawn from the policy framed by the Government of NCT of Delhi by way of Order No.F.18/5/94/Home (Genl) dated 16.07.2004. That is also the admitted position from both sides. According to the petitioner, the said policy of the year 2004 was not adhered to by SRB in his case, while according to the respondent, it was otherwise.

8.1 For the sake of convenience, the relevant portion of the said policy of the year 2004 is extracted below:

“Eligibility for premature release:-

3.1 Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A CrPC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. It is however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:-

- a) Whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 years incarceration;*
- b) The possibility of reclaiming the convict as a useful member of the society; and*
- c) Socio-economic condition of the convict's family.*

Such convict as stand convicted of a capital offence are prescribed the total period of imprisonment to be undergone including remission, subject to a minimum of 14 years of actual imprisonment before the convict prisoner is released. Total period of incarceration including remission in such cases should ordinarily not exceed 20 years.

Certain categories of convicted prisoners undergoing life sentence



would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions. The period of incarceration inclusive of remissions even in such cases should not exceed 25 years. Following categories are mentioned in this connection.

- a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.
- b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.
- c) Convicts whose death sentence has been commuted to life imprisonment.

3.2 All other convicted male prisoners not covered by section 433A CrPC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e., without remissions.

3.3 The female prisoners not covered by section 433A CrPC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e., without remissions.

3.4 Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution of India”

9. In the backdrop of rival submissions as detailed above, the first crucial question to be considered is as to whether the impugned order suffers the vice of non-application of mind. If that be so, the impugned order would be liable to be trashed on this ground itself. It is a matter of liberty of a human



being, who has, of course, no right to be released premature, but who certainly has a right to be considered for premature release, if he is eligible. And it is application of mind only, which would furnish foundation to the claim of the State that case of the petitioner was duly considered.

9.1 In the present case, one of the most glaring indicators of non-application of mind, which I find is as follows. The arguments in the present case were partly heard on 11.05.2026 and it was pointed out by learned counsel for petitioner that the manner in which the Police Verification Report was submitted is a strong indicator of clear non-application of mind. It was pointed out by learned counsel that the Police Verification Report dated 28.08.2025 was strongly in favour of the petitioner when it was placed before the concerned DCP for being transmitted to SRB, but in his covering communication dated 15.09.2025 the DCP wrote that: *“as per the report, premature release of the convict Moti @ Mohit S/o Dhan Bahadur is not recommended”*. It was argued that the concerned DCP did not care to go through even the crisp 1½ page Police Verification Report. On this aspect, it was considered appropriate, so the concerned DCP was called upon to explain, if so desired. The relevant extract of order dated 11.05.2026 is:

“3. Broadly speaking, the SRB rejected the early release of the petitioner mainly on the basis of report of the Social Welfare Department and the police report. The Social Welfare Department report, rather supports case of the petitioner. When it comes to police verification report dated 15.09.2025, in the covering page of the report, the Deputy Commissioner of Police, South District recorded that as per verification report, premature release of the petitioner is not recommended. But the verification report annexed with that communication of the DCP is to the contrary. According to learned counsel for the petitioner, the concerned DCP mechanically wrote in the communication dated 15.09.2025 that pre-mature release of the



petitioner is not recommended as per report. I find substance in the submission that the DCP concerned, apparently did not even bother to read the report.

4. Before proceeding further, it is considered appropriate that the concerned DCP be given an opportunity to explain, if he so desires, the circumstances in which he recommended case of the petitioner not to be fit for pre-mature release. For that purpose, learned ASC shall convey to the concerned DCP about an opportunity.”

Accordingly, the concerned DCP submitted explanation dated 12.05.2026, but without explaining anything. Rather, in the said explanation, the concerned DCP went on to improvise and also observed those aspects which did not form part of the Police Verification Report dated 28.08.2025. The relevant extract of the said explanation of the DCP is as below:

“4. That as per the verification report, the convict was found to be involved in the gruesome double murder cum theft case. It was seen from the record that he was arrested from Indo-Nepal Border.

5. Further, there is no apparent source of income of accused's family. Also, the neighbors were not found familiar with the convict or his family.

6. Moreover, the convict Moti @ Mohit was found actively involved in committing the offence of the present case. Based on the above details filled in the check list form the case of convict Moti@ Mohit for pre-mature release was not found fit for recommendation and accordingly, the same was forwarded as "Not Recommended" in the verification report.

However, The undersigned shall be more careful and attentive while submitting reports to SRB and shall ensure that the reports are concise and precise.”

I am in absolute agreement with learned counsel for petitioner that the said non-recommendation by the concerned DCP, which formed one of the bases of the impugned order was blinded by total non-application of mind and consequently, the impugned order also suffers percolation of the same vice.



9.2 Further, as mentioned above, the operative part of the impugned order/minutes of meeting dated 16.10.2025 of SRB are virtually copy-paste of the minutes of earlier meetings. It appears from the said wordings of the impugned order that the SRB in meeting dated 16.10.2025 did not apply mind afresh. It is trite that every instrumentality of State, be it judicial or administrative, while deciding an issue must author the decision in such a manner that deciphers what worked in the mind of the authority concerned. The court must have some material before it to examine whether there was proper application of mind or not. In the present case, there is nothing on record to suggest that the SRB in meeting dated 16.10.2025 applied mind afresh, instead of just parroting the minutes of the earlier meetings.

9.3 In the case of **Rohit Chaturvedi** (supra), the Supreme Court reiterated the settled principle of law that any order affecting rights of a person and particularly his liberty must be with reasons and must reflect due application of mind; and that recording of reasons is not an empty formality, but a safeguard against arbitrariness and it ensures transparency, fairness and accountability in the decision making. The Supreme Court emphasized that absence of reasons renders such decisions bald and makes it impossible to ascertain whether the relevant factors were duly considered or not. In the present case, I am of the considered view that the impugned order is liable to be set aside on the ground of non-application of mind.

10. Proceeding further, as mentioned above, in the case of **Vikram Yadav** (supra), I examined in detail the working and composition of SRB while trying to analyze the reason behind such mechanical orders passed by the



SRB, and observed thus:

“11. Before proceeding further, it would be pertinent to note that the operative minutes of meeting dated 30.06.2023 are virtually copy-paste of the minutes of earlier meetings dated 06.08.2020, 11.12.2020, 25.06.2021, and 21.10.2021. The composition of the SRB would make this court assume that each matter is discussed threadbare in such meetings. But unfortunately, the manner in which minutes of these meetings were worded, the allegation of non-application of mind cannot be brushed aside. Every instrumentality of the State, be it judicial or administrative, while deciding an issue must author the decision in such manner that deciphers what worked in the mind of the authority concerned. The court must have material before it to examine as to whether there was proper application of mind or not. In the present case, there is nothing on record to suggest proper application of mind by the SRB.

12. Another important aspect is that quite often, the SRB members appointed in their official capacity do not personally attend the meeting and rather send their representatives, owing to their other heavy official engagements. The profile of members of the SRB is such that it is practically not possible for all of them to gather and scrutinize so many cases dealing with human attitudes and personality. The Chairman of the SRB being the Minister and members of SRB being the Principal Secretary (Home) and Secretary (Law, Justice and Legislative Affairs), they opting to send their representatives owing to their overall heavy workload cannot be faulted with. Same is the status qua the District & Sessions Judge.

13. The SRB deals with human beings, that too those who have been deprived of liberty across a long span of time on account of their aggression which led to criminality. The approach of the SRB ought to be reformation oriented and not a routine disposal/statistics dominated exercise. The composition of SRB needs to be re-examined by the authorities concerned so as to make the exercise of sentence review meaningful and commensurate to the laudable philosophy of reformation of criminal. It is suggested that the composition of SRB must include the judicial officer concerned (or her/his successor) who sentenced the prisoner under consideration; that judicial officer would better contribute after examining the entire trial and sentencing records. It is further suggested that composition of SRB must include an eminent sociologist and a



criminologist with missionary zeal and sensitivity towards reformation of the prisoner under consideration. Another vital component of SRB can be the concerned Jail Superintendent, who had the best opportunity to watch the reformatory growth or otherwise of the prisoner concerned from close quarters. In order to ensure meaningful exercise of sentence review, the composition of SRB should be based on nexus between the jail performance of the prisoner and the job profile of the member concerned, instead of just high official designation of the member.

14. As regards application of mind, keeping in view sensitivity of the decision to allow or deny premature release to a prisoner, the application of mind has to be such that reflects application of reasonable and logical parameters. A comparative inventory of aggravating and mitigating factors must be taken on record by SRB in order to arrive at its decision. The decision, so arrived, must have a reasonable connect with the inventory, aimed at achieving meaningful reformation. In this regard, SRB should also make a graded response in the sense that depending upon the scale of observed reformation of the prisoner, if the stage is considered a bit early for premature release, the prisoner can be shifted initially to semi-open prison, followed by open prison. That gradual movement would give a taste of liberty to the prisoner, which would encourage him to push for his reformation and that would be a meaningful punishment. Not just this, SRB can also consider premature release of the convict/prisoner with necessary directions in the nature of surveillance over specific period, directing the prisoner/convict to report before the local police on a weekly basis for specific period. The binary of grant or denial of premature release has to be discarded."

(emphasis supplied)

But despite that discussion (*pronounced on 11.06.2025*), the authorities have opted to remain stoically intransigent and disinterested in streamlining the SRB working and composition.

11. Apart from the aforesaid aspect of complete non-application of mind by the SRB while considering the case of the petitioner (*which in itself is a*



sufficient ground to set aside the impugned order), I have gone a step deeper to analyze the individual merits in case of the petitioner.

11.1 Admittedly, the petitioner is first-time offender and has no objectionable antecedents. In other words, petitioner is admittedly not a habitual and/or an occupational criminal. That, to my mind is a vital factor in determining the possibility of his reformation and grant of premature release.

11.2 By way of communication dated 10.10.2025, the concerned Probation Officer forwarded the Social Investigation Report related to the petitioner to the concerned Jail Superintendent for perusal of the SRB. That report was written by the Probation Officer after interaction with the petitioner and on the basis of documents available in the jail. The circumstances mentioned in the said report, as relevant for present purposes are: that at the time of the offence, the petitioner was aged 19 years and at the time of furnishing the report, he was aged 40 years; that the petitioner qualified graduation from jail, where he is working as VC Sewadar and also got married during the period of his incarceration; that the petitioner plans to continue his restaurant job in future; that jail conduct of the petitioner during past one year was found satisfactory as per nominal roll; that family of petitioner consists of his widowed mother, his wife, his younger brother and daughter; and that as per jail record, the petitioner had availed parole seven times and furlough ten times. According to that report, the nominal rolls recorded overall conduct of petitioner in jail as unsatisfactory, because for a solitary misconduct of possession of a prohibited article (*which was two gram tobacco*), he had been awarded jail punishment on 20.01.2018.



11.3 It would also be pertinent to take a note of the analysis and evaluation of the case of the petitioner carried out by the Probation Officer in the said Social Investigation Report, and the same is extracted below:

“The convict has undergone 19 years and 07 months inside the jail including undertrial period. He has availed parole/furlough multiple times. During this time he has not committed any crime, which shows his willingness to comply with the conditions parole/furlough. In addition to it, it also shows that he is harmless to the society. As per jail records there is no other case pending against the convict.

Upon interacting with him inside the jail, the undersigned was conveyed by the convict that he worked as a Store Sahayak, Plumber, Control Room Sahayak, Office Sewadar and currently working as VC Sewadar. He is earning Rs.10,000/month, a part of which he sends to his family. The convict also conveyed that he works as an attendant at a restaurant in Noida when goes for his parole/furlough. The convict was also out for about year or so (06.07.2023-08.10.2024) where he worked as an attendant in Shree Krishna Restaurant in Noida and earned his living and supported his family. This shows that the convict has engaged himself in doing meaningful work and has been showing responsibility towards his family.

When released, he plans to continue working as an attendant in a restaurant and earn his living. The convict is determined to reintegrate fully into his community and family ensuring their socio-economic stability and well being.”

11.4 Then comes the Police Verification Report dated 28.08.2025 of the SHO concerned, forwarded to the concerned DCP by the concerned ACP. According to the same, the total criminal involvement of the petitioner is only in the present case and he does not belong to any criminal group/gang/syndicate. The said police verification report categorically records that the petitioner does not have propensity to commit crime again on being released, and that there is no factor on which his premature release



can be opposed. The report further mentions that no act of indiscipline or untoward incident including acts of aggression or violence was reported against the petitioner when he was released on bail/parole/furlough. Despite such specific report of the SHO concerned, forwarded by the ACP concerned, in his covering letter, the concerned DCP arbitrarily stated that premature release of the petitioner is not recommended.

11.5 While considering the socio-economic status of petitioner, it would also be relevant to keep in mind, his family circumstances. Annexure P-12 to the petition is the medical record of daughter of the petitioner, according to which since the age of 03 months, the child is unfortunately suffering with a congenital disease, namely SW-CAH with DSD (*salt wasting congenital adrenalin hyperplasia with disorder of sex development*). As regards the said medical record, learned ASC had objected on the ground that the same was not before the SRB at the time of passing the impugned order. Correct. But it was the duty of the Probation Officer to collect those records from family of the petitioner and place the same before the SRB. The petitioner cannot be penalized on this count.

12. I have also examined the issue from perspective of the State as regards rejection of case of the petitioner for premature release. Certainly, the submission of learned ASC is correct that the court should not get carried away by misplaced sympathies in favour of prisoner at the cost of security of the society at large. But that does not mean that in the name of security of the society, the court should ignore all other circumstances which convey an impression that the prisoner has reformed himself after serving such



prolonged incarceration.

12.1 According to the respondent/State, the only reason for rejecting the case of the petitioner for premature release is the punishment awarded to him in prison. That punishment was awarded way back in the year 2018, whereby the petitioner was transferred from semi-open jail to closed jail; and the said offence alleged against the petitioner was that he was found in possession of two grams tobacco. Apart from that, there is no jail punishment alleged against the petitioner across the period of his incarceration for more than 20 years. For such jail offence, denial of premature release would not just be disproportionate response of the State, but also double jeopardy in the sense that the petitioner already stood punished for that jail offence of 2018 by way of his transfer from semi-open jail to closed jail. More importantly, even after the said jail offence of 2018, the petitioner was repeatedly released on furlough. For possession of two grams tobacco while being in semi-open jail, the petitioner cannot be penalized till eternity.

12.2 Another reason advanced on behalf of State in support of denial of premature release to petitioner was that as regards the crime for which he is undergoing life imprisonment, the petitioner was arrested from Indo-Nepal Border while trying to flee. To say the least, the manner in which and the place from where the petitioner was arrested has no relevance at all to grant premature release in the light of above narrated factual and legal matrix.

12.3 Another reason advanced on behalf of State to justify denial of



premature release to petitioner is that the crime committed by him was gruesome. At the cost of repetition, it is observed that the same was his first and last crime. Of course, the double murder, followed by theft is indeed a serious crime. But one also cannot ignore that the said crime took place way back in the year 2004 and the trial court by way of reasoned order did not find it a fit case to award death penalty, so life imprisonment was awarded. The petitioner has already undergone incarceration for more than 20 years. Not that due to passage of time the inherent perversity of the crime *per se* diminishes in any manner, but for the purposes of meaningful sentencing, on account of such long incarceration as suffered by the petitioner, the perversity must be visualized as faded. The wound suffered by kith and kin of the deceased persons which were fresh in the year 2004, would have by now reduced to scab. Time heals all wounds. This is the only way to fathom in order to ensure purposive application of the reformatory tool of premature release, otherwise no convict would ever be granted opportunity to reform himself. The life imprisonment, by its very nature is awarded for gruesome crimes, where the appropriate punishment falls slightly short of awarding death sentence. A punishment, to be scientific has to have an end somewhere during lifetime of the convict.

12.4 So far as the argument of propensity to commit further crime is concerned, which according to the State is one of the reasons in the present case to deny premature release to the petitioner, as mentioned above, in his detailed Police Verification Report forwarded by the ACP concerned, it was specifically observed by the concerned SHO that the petitioner has no propensity of committing crime if released from jail. Merely because the



petitioner is of young age of 40 years, it cannot be presumed that he has propensity to commit crime. For, mere attainment of older physical age cannot lead to a presumption of lesser or reduced chances of repeating crime. Bodily strength has no nexus with propensity to commit crime. The propensity to commit crime has to be analysed by examining reformatory ascension of the prisoner on the basis of cogent material. In the present case, as mentioned above during the period of his incarceration, the petitioner completed his graduation from jail and also worked in jail in different capacities across variety of occupations, ranging from store assistant, plumber, control room assistant, office attendant, and even VC attendant. Even during the period when he was released on parole or furlough, the petitioner kept himself gainfully occupied by working as attendant in restaurants in Noida to earn livelihood for family. In fact, the Social Investigation Report of the Probation Officer explicitly records that the petitioner on being released plans to continue working in a restaurant and he is determined to reintegrate fully into his community and family, ensuring their socio-economic stability and wellbeing.

12.5 Therefore, *de hors* the issue of non-application of mind, even on petitioner's own merit, he deserves to come out of jail now instead of suffering further unnecessary and unproductive incarceration. Leaving the petitioner remain dumped till his last breath can be validation of the different other theories of punishment in the form of the deterrence or retribution or prevention, but would completely demolish the reformatory idea of punishment, and consequently would defeat the currently recognized tenet of purposive sentencing.



13. The above discussion leaves no doubt that the impugned order rejecting the case of the petitioner for premature release is not sustainable in the eyes of law, because it was tainted by non-application of mind, which vice started from the report of the DCP and percolated down into the consideration by the SRB, coupled with the mechanical manner of the so-called deliberations by SRB. The impugned order also must fail when tested on individual merits of the petitioner, as described above.

14. The next query to which this court must proceed is as to whether this court should simply set aside the impugned order and remand the matter for fresh consideration by the next SRB (*whenever the same is convened*) or this court should direct forthwith premature release of the petitioner. For the reasons mentioned hereafter, I am of the considered and firm view, guided by the principles laid down in the latest judgment of the Supreme Court in the case of **Rohit Chaturvedi** (supra) that remand of the matter in this case would not be an appropriate judicial response to the State's apathy.

14.1 The above discussion amply establishes that case of the petitioner for premature release was dealt with by the SRB in quite unscientific and casual manner, that too repeatedly. I have also deliberated upon as to what led to such glaring non-application of mind by the concerned DCP as well as the SRB. The conclusion I reach is that it is mainly because of the composition and working of the SRB, which was held in the case of **Vikram Yadav** (supra) to be quite deficient. It is as if the concerned authorities in a mechanical manner (*if not biased with criminophobia*), opted to ignore such



vital circumstances as enumerated above. Sending the matter back to the same ecosystem of same working patterns and same composition would not just be non-productive exercise but also to a certain extent be shirking away from duty of this constitutional court to render justice to the petitioner.

14.2 It is not just that the State opted to completely ignore the above quoted reforms in the composition and working of the SRB across a period of more than one year (*Vikram Yadav judgment was pronounced on 11.06.2025*), the unaltered SRB opted to even ignore specific order dated 25.07.2025 of a coordinate bench of this court, whereby the earlier decision of the SRB against the present petitioner was set aside and the matter was remanded to SRB for reconsideration. In the said order dated 25.07.2025, the coordinate bench of this court explicitly cited the earlier judgment of *Asif Alias Naeem* (supra) as guidelines for carrying out fresh consideration, but even in fresh consideration (*which was as discussed above virtually no consideration at all*) those guidelines were completely disdained. To say the least, such obstinacy on the part of instrumentality of State entrusted with protection of human liberty deserves nothing but condemnation in strongest expressions.

14.3 Of course, the issue of premature release falls in the domain of the executive, and the judicial organ of the State has power of judicial review. The issue is where the executive organ of the State opts to turn blind eye to the abovementioned plethora of judicial verdicts including *Asif Alias Naeem* (supra), laying down specific guidelines, should a constitutional court be so helpless that it finds no option but to throw the ball back into the court of the executive, reducing the aggrieved prisoner to a ping-pong ball. In my view,



sending the petitioner back to the door of SRB would not be conscionable.

14.4 There is another significant aspect. As mentioned above, the covering communication dated 15.09.2025 of the concerned DCP was totally contrary to the Police Verification Report, which was being forwarded by him to the SRB, therefore, the concerned DCP was granted opportunity to explain. Instead of gracefully accepting it to be a *bona fide* error, the DCP not just tried to justify his non-recommendation but even improvised the stand in a vindictive manner. And the State wants this court to remand the case to same set up. I find no reason to believe that if remanded, case of the petitioner would be dealt in any better manner.

14.5 Then, this is not the first occasion when the SRB considered case of the petitioner for premature release and rejected it. As described above, this is the fifth occasion when the petitioner was denied premature release, that too despite the coordinate bench having brought to the notice of SRB the judicially sanctified guidelines to be followed by SRB, but those guidelines were again flagrantly slighted. If now again the matter is remanded and the SRB opts to repeat its stereotyped response, the petitioner will again have to approach this court and looking at overflowing dockets of this court dealing with almost 100 cases every day, one cannot predict when he will get chance to be heard. In the meanwhile, the constant suffering of incarceration will lead to frustration and possibly reversal of his reformation.

15. In view of above discussion, this petition is allowed and the impugned order/minutes of meeting dated 16.10.2025 of the Sentence Review Board to



the extent of rejection of case of the petitioner for premature release is quashed and consequently, the **petitioner is directed to be released forthwith** from jail, where he is undergoing the sentence of life imprisonment imposed on him in the case FIR No. 428/2004 of PS Defence Colony for offence under Section 302/380/201/411/34 IPC.

15.1 For compliance, copy of this judgment be immediately forwarded to the concerned Jail Superintendent.

15.2 Copy of this judgment be also sent to the Chairperson of Sentence Review Board, Delhi and the Director General of Prisons, Delhi with the expectation that the observations made herein (*especially in paragraph 10*) would receive due and serious consideration at the appropriate level, and that the concerned quarters would undertake a meaningful deliberation on the composition, working and efficacy of the Sentence Review Board, with a view to addressing the concerns flagged in this judgment and taking appropriate corrective measures, wherever warranted.

**GIRISH KATHPALIA
(JUDGE)**

AUGUST 31, 2026/ry