IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3315 of 2025

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In view of minutes dt- 17.12.25 of Hon'ble The A.C.J. based on SLP(Crl) No. 529/21 Bihar

... ... Petitioner/s

Versus

The State of Bihar through Chief Secretary, Government of Bihar, Patna Bihar

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Xxxxx
For the Respondent/s : Mr.A.A.G. 3

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date : 18-09-2026

1. Pursuant to the order of the Hon'ble Supreme Court dated 04.11.2025 passed in SLP (Crl.) No. 529 of 2021 (arising out of Suo Motu Writ Petition (Crl.) No. 4 of 2021), this Court registered the present suo motu writ petition and framed the following questions for adjudication:

(i) What is the method of calculation of ordinary remission?

(ii) When the Remission Committee consists of the Superintendent, Additional Superintendent and Deputy Superintendent of Correctional Home, whether the benefit of remission may be selective in case of convicts?

(iii) If Rule 428 & 429 of Bihar Prison Manual, 2012 are read conjointly, it appears that special remission of 30 days in a year can be granted to a convict who has rendered special assistance to the prison and correctional services department in its drive to improve the educational standards of prisoners or for

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imparting vocational training to the prisoners.

(iv) What will then happen to the prisoners who are not educated or having no vocational knowledge?

(v) Whether the relevant rules laid down in Bihar Prison Manual, 2012 with regard to remission is absolutely selective or not giving excessive and inclusive power to the executive branch of the Government to decide the issue of remission?

2. After receiving the case record being assigned by the Hon'ble the Acting Chief Justice, this Court appointed Mr. Pratik Kumar Sinha, Advocate as Amicus Curiae to assist the case. Mr. P.K. Verma, Learned Additional Advocate General supported by Mr. Saroj Kumar Sharma represented the State of Bihar.

3. We have heard the learned Amicus Curiae and the learned counsel appearing for the State, assisted by the Inspector General of Prisons and Correctional Services. We have also perused the detailed written submissions filed on behalf of both sides and the relevant provisions of the Bihar Prison Manual, 2012 (hereinafter "the Manual").

4. **Question (i): Method of calculation of ordinary remission**

(i) Ordinary remission is governed by Rules 409, 411, 414, 415 and 417 of the Manual. Eligible convicted prisoners

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(those undergoing rigorous imprisonment of two months or more, and certain other categories who volunteer for work) are entitled to ordinary remission on the following scale:

(a) two days per calendar month for thoroughly good conduct, participation in institutional activities and meticulous observance of prison regulations;
(b) two days per calendar month for performance of assigned work according to prescribed standards; and
(c) one day per calendar month for work performed on Sundays and holidays for prison maintenance, kitchen or hospital duties.

(ii) The maximum ordinary remission admissible is seven days in a calendar month and eighty-four days in a year. Ordinary remission is calculated from the first day of the calendar month next following the date of sentence. No ordinary remission is admissible for the broken period of the month of sentence. Periods spent outside the prison on leave or parole that are counted towards the sentence do not interrupt the continuity of calculation. Prisoners unable to work for reasons beyond their control continue to earn the conduct component on the scale of the preceding month, provided their overall conduct so warrants.

(iii) The Remission Committee examines the monthly record of conduct and work and recommends the grant. The

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Superintendent thereafter sanctions the remission and causes the same to be entered in the History Ticket. The process is required to be undertaken on a quarterly basis. We direct that henceforth every prisoner shall be supplied with a duplicate copy of the History Ticket reflecting the remission earned or forfeited, so that the prisoner is fully informed and can seek rectification if necessary.

5. **Question (ii): Whether the composition of the Remission Committee renders the benefit selective**

(i) Rule 406 constitutes the Remission Committee comprising the Superintendent (Chairman), Deputy Superintendent (Member-Secretary) and Assistant Superintendent (Member). The Committee's function is to assess eligibility on the basis of objective criteria of conduct and work performance laid down in Rule 411 and to make recommendations to the Superintendent. The Superintendent's decision is final under Rule 408.

(ii) The composition of the Committee is entirely executive. That circumstance, however, does not by itself render the grant of ordinary remission selective or arbitrary. The scales are fixed, the criteria are conduct and work based, and the process is recorded in the History Ticket. Any

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deviation from the prescribed criteria or discriminatory application is amenable to judicial review under Articles 14 and 21 of the Constitution. The mere fact that the recommending body consists of prison officers does not, in our view, introduce an element of prohibited selectivity. We, however, accept the suggestion of both the Amicus and the State that a formal internal appeal mechanism against incorrect calculation or denial of ordinary remission should be provided, and we direct the State to incorporate such a provision within three months.

6. **Questions (iii) and (iv): Special remission under Rules 428 and 429 and the position of uneducated or non-vocationally trained prisoners**

(i) Rule 427 enumerates the grounds on which special remission may be granted. Rule 428 empowers the Superintendent to grant up to thirty days and the Inspector General up to sixty days of special remission in a year. Rule 429 provides an additional incentive of a maximum of thirty days (by the Inspector General) to long-term prisoners who render special assistance in improving educational standards or imparting vocational training.

(ii) The State has clarified, and we accept, that Rule

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428 is available to all convicted prisoners without any bar based on educational qualification. Rule 429 is purely motivational and does not exclude any prisoner from the benefit of ordinary remission or of special remission under the other clauses of Rule 427. The overall ceiling of one-third of the sentence under Rule 405 continues to apply. Consequently, an uneducated or non-vocationally trained prisoner remains fully entitled to ordinary remission and to special remission for any of the meritorious acts enumerated in Rule 427. The additional incentive under Rule 429 does not create a class of permanently disadvantaged prisoners.

(iii) Nevertheless, to remove any possible perception of inequality, we direct the State to examine and, if necessary, frame an alternative pathway enabling illiterate prisoners to earn comparable additional remission through other reformative or institutional contributions. Until such amendment is notified, the existing scheme shall continue to operate, subject to the overarching one-third ceiling and the non-discrimination mandate of Article 14.

7. **Question (v): Whether the remission rules are absolutely selective or confer excessive power on the executive**

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(i) The scheme of Chapters XIII and XV-B of the Manual is structured and not absolute in its selectivity. Ordinary remission operates on fixed quantitative scales. Special remission is guided by enumerated considerations. Premature release of life convicts is regulated by Rules 474 to 487, the parameters laid down in Laxman Naskar v. Union of India, (2000) 2 SCC 595, and the obligation of the State to consider every eligible case suo motu in terms of the judgment of the Hon'ble Supreme Court dated 18.02.2025.

(ii) The executive is necessarily vested with a measure of discretion in assessing individual conduct, work performance and suitability for premature release. That discretion, however, is neither unfettered nor immune from scrutiny. It is controlled by the ceilings in the Manual, the requirement of reasoned orders, the right of the prisoner to be informed, the principles of natural justice before forfeiture, and the supervisory jurisdiction of this Court under the present suo motu proceedings. Any exercise of power that is arbitrary, discriminatory or contrary to the policy is liable to be struck down.

(iii) We therefore answer Question (v) by holding that the rules are not "absolutely selective" and do not confer

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excessive or unbridled power on the executive. The residual concerns regarding transparency, timelines and grievance redressal stand substantially addressed by the suggestions jointly emerging from the Amicus and the State, which we adopt as directions hereinafter.

8. **Recommendations**

Having regard to the comprehensive submissions of the learned Amicus Curiae and the Inspector General of Prisons, and keeping in view that the rule-making prerogative rests with the State Government, this Court makes the following consolidated recommendations for consideration and appropriate action by the State Government:

(i) The process of obtaining reports from various authorities regarding proposals for premature release of eligible prisoners shall be initiated at least six months before the prescribed eligibility date by the concerned Jail Superintendent.

(ii) Fixed time-limits shall be prescribed for submission of reports by the concerned authorities (Probation Officer - 15 days; Superintendent of Police - 30 days; Presiding Officer - 15 days). Responsibility for timely submission shall rest with the concerned authority. In the event of non-submission within the prescribed time, the report may be treated as favourable.

(iii) All procedures relating to the required reports should ordinarily be completed at least two months before the

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convict completes the prescribed period (14 years of actual imprisonment / 20 years including remission), so that sufficient time is available for consideration by the State Sentence Remission Review Board.

(iv) Wherever approval of the Ministry of Home Affairs, Government of India, is required, such approval or rejection should be obtained within thirty days. The State may consider the consequence of silence on the part of the Ministry.

(v) All recommendations for premature release shall be made strictly in the light of the parameters laid down by the Hon'ble Supreme Court in Laxman Naskar (Supra).

(vi) A provision may be inserted fixing a reasonable outer time-limit for decision on cases of life convicts upon completion of the prescribed period of actual custody, together with fixation of responsibility on a designated authority.

(vii) The History Ticket shall be maintained in two copies – one to remain in the prison office and the other to be given to the prisoner – with clear entries of remission granted or seized. The prisoner shall be entitled to seek rectification or prefer an appeal if dissatisfied with the calculation.

(viii) Before any deduction or seizure of remission already granted, the prisoner shall be afforded an opportunity of hearing and a reasoned order shall be passed. An appellate mechanism against such seizure, to be decided by a reasoned order within thirty days, may be

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provided.

(ix) A formal mechanism enabling a prisoner to file a complaint against any discrepancy in the calculation or non-grant of remission may be incorporated.

(x) The State Sentence Remission Review Board may be expressly empowered to recommend premature release subject to appropriate, reasonable and non-oppressive conditions having regard to the nature of the offence, age of the prisoner, and the reports received.

(xi) Suitable provisions may be inserted for cancellation or withdrawal of permanent remission only after affording an opportunity of hearing and recording brief reasons.

(xii) Remission earned during the under-trial period shall be appropriately counted and set off against the sentence after conviction, in terms of Rule 424 or by suitable clarification/amendment.

(xiii) The provisions of Rules 428 and 429 may be examined so as to ensure that illiterate prisoners are not placed at a disadvantage; the State may consider providing an alternative pathway for such prisoners or suitable modification of the educational/vocational criterion.

(xiv) The State may consider placing prisoners involved in serious SC/ST cases, certain information-technology offences (including those relating to obscene material or cyber-crime involving abetment of suicide/death), mob lynching, acid-attack cases, and such other categories as it deems appropriate, in the category of ineligible for premature release, and may also examine

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addition of further categories under Rule 481(i) and Chapter XIII.

(xv) The continued need for sub-clauses (iv) and (v) of Rule 481 may be examined in the light of the decisions of the Hon'ble Supreme Court in Union of India v. V. Sriharan, (2016) 7 SCC 1, and Ramasrey @ Fakkad v. State of Uttar Pradesh, MANU/SC/0757/2026.

(xvi) Calculation of remission in the case of prisoners transferred from one State to another shall continue to be in accordance with the provisions of the State in which the prisoner is serving the sentence.

(xvii) The list of all life convicts, with details of actual custody, remission earned (month-wise and year-wise), case particulars, likely date of consideration by the Board, and the final order of the Board, may be uploaded on a dedicated portal or the official website of the Home Department for the information of the convicts and their families.

9. The State Government is requested to examine all the above recommendations in a comprehensive manner, take an appropriate policy decision, and effect necessary amendments to the Bihar Prison Manual, 2012, or issue suitable executive instructions, as it may consider proper.

10. The State Government shall place on record within four weeks the updated list of the thirty-two pending cases before the State Sentence Remission Board, together with the

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dates on which each convict completed the prescribed period of incarceration. The State Government shall also file a compliance report before this Court within a period of four months from today, indicating the decisions taken on each of the recommendations and the steps taken for their implementation.

11. Let a copy of this judgment be sent to the Chief Secretary, Government of Bihar, and to the Principal Secretary, Home Department, Government of Bihar, for necessary action and compliance.

12. With the recording of the answers to the five questions and the recommendations made above, the present suo motu writ petition stand disposed of.

(Bibek Chaudhuri, J)

Chandra Shekhar Jha, J: I agree.

(Chandra Shekhar Jha, J)

uttam/-

AFR/NAFR	NAFR
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