IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2026
[@ SLP [CRL.] NO.16408/2024]

GURMEJ SINGH **Appellant(s)**

VERSUS

UNION OF INDIA & ORS. **Respondent(s)**

O R D E R

1. Leave granted.

2. In 2012, the appellant herein was convicted for murder in the United Kingdom and was sentenced to undergo life imprisonment by the Crown Court at Birmingham, with minimum tariff of 35 years. In other words, the appellant stood convicted, and accordingly, was sentenced for a minimum period of 35 years under the United Kingdom laws. Thereafter, he applied for transfer to India under the Indo-UK Agreement on Transfer of Sentenced Persons (for short 'the Indo-UK Agreement'). On a doubt expressed by the UK authorities, the Government of India sent a communication dated 20.06.2018, which states as under:

> **"Insofar as the specific issue raised by you in the letter under reference is concerned, it is informed that the UK Government vide their letter dated 6th October, 2008 had asked MHA seeking confirmation about "continued enforcement" of the sentence**

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awarded to Mr. Rai. In response to UK Govt's letter, Govt. of India has informed that in the event of his transfer, there is a possibility of invoking provision of Article 8(2) of the Indo-UK TSP agreement and thereby adapting Mr. Rai's sentence to make the same compatible with the Indian law. It was also informed that as per Indian law, Mr. Rai would be considered for release by the Sentence Review Board after 14 years of imprisonment. To this, UK authorities had responded that since this will provide benefit to Mr. Rai for a possible 21 years reduction in his tariff, they wold refuse transfer of Mr. Rai on these terms. Subsequently, the Govt. of India had replied to the UK Govt.(copy attached) the Hon'ble Supreme Court of India had clarified that a convict undergoing life imprisonment is expected to remain in custody till the end of his natural life subject to remission granted by the appropriate Government under the law. Thereafter, the transfer was agreed by the UK side and Mr. Gurmej Singh was transferred to India on 15.05.2015. Relevant papers/UK Court's Judgment related to the case of Mr. Gurmej Singh are attached."

3. Accordingly, the appellant was transferred and made to undergo his sentence in the State of Punjab. The appellant made an application for premature release upon completion of 14 years, which was rejected by the Government of India.

4. Aggrieved, he filed a writ petition, being

CR.W.P. No.218 of 2023, before the High Court. The High Court, vide order dated 31.10.2023, upheld the decision taken by the respondent No.2, *inter alia,* holding that the appellant had to undergo the remaining period of sentence, as awarded by the UK Court. Aggrieved by the same, the appellant is before us.

5. Learned counsel appearing for the appellant submitted that on a combined reading of Sections 13(6), 11 and 12 of the Repatriation of Prisoners Act, 2003, on one hand and Articles 8 and 10 of the Indo-UK Agreement on the other, the impugned order of the High Court and the one passed by the respondent No.2 cannot be sustained in the eyes of law.

6. In support of his submission, the learned counsel for the appellant placed reliance on a decision of this Court in Criminal Appeal No.2084 of 2023 dated 24.07.2023, wherein the following views were expressed:

> **"We have perused the provisions of the Repatriation of the Prisoners Act, 2003 and a copy of the Transfer of Sentenced Persons Agreement between the Government of India and the Government of United Kingdom. After having perused the Clause (2) of Article 10 thereof, we find that there is a power vesting in Union of India even to grant pardon, amnesty or commutation of sentence in**

accordance with the laws prevailing in India. We do not see any prohibition on grant of parole to the appellant on valid and lawful grounds."

7. Learned ASG appearing for the Union of India and the learned counsel appearing for the State would submit that Article 8 of the Indo-UK Agreement does not facilitate modification of the sentence imposed, to the benefit of the appellant.

8. In support of his submission, the learned ASG placed reliance on a decision of this Court in *Union of India v. Shaikh Istiyaq Ahmed & Ors.* - (2022) 13 SCC 380.

9. Having heard the parties, we shall first record Article 8 and Article 10 of the Indo-UK Agreement for a better understanding:

"Article 8
Continued enforcement of sentence

1. The receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.

2. If, however, the sentence is by its nature or duration or both incompatible with the law of the receiving State, or its law so requires, that State may, by Court or administrative order, adapt the sentence to a punishment or measure prescribed by its own

law. As to its nature and duration the punishment or measure shall, as far as possible, correspond with that imposed by the judgment of the transferring State. It shall however not aggravate, by its nature or duration, the sentence imposed in the transferring State.

Article 10

Pardon, amnesty or commutation, and review of judgment

1. The transferring State alone shall decide on any application for the review of the judgment.

2. Either of the Contracting States may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws."

10. We are not concerned with the case of the appellant coming under Article 8 *per se*. Rather, the present case involves the application of the relevant remission policy to the appellant. It is not in dispute that if the same offence had been committed in India, the appellant would have been entitled for the said relief.

11. Hence, the question that arises for consideration is as to whether Article 10 of the Indo-UK Agreement can be pressed into service or not.

12. A reading of Article 10(2) of the Indo-UK

Agreement would clearly indicate that either of the contracting States may grant pardon, amnesty and commutation, in accordance with the Constitution or other laws. The words "*other laws*" would certainly include the laws governing remission of sentence.

13. It is not as if the conviction *per se* is modified, but it is only the sentence that stands reduced, by way of a policy decision in the form of remission. So long as the said power exists with the State, it assumes the trapping of "other laws", as mentioned in Article 10 of the Indo-UK Agreement.

14. The decision relied upon by the learned ASG in *Union of India v. Shaikh Istiyaq Ahmed & Ors (supra),* does not apply to the facts of the case. In the said case, Article 10 of the Indo-UK Agreement was not involved, since it was a question of reducing the sentence, as per the sentencing policy, corresponding to the offence committed, pursuant to the conviction rendered.

15. We also find it apposite to mention that the communication of the Government of India, Ministry of Home Affairs dated 20.06.2018, clearly states that the deportation of the appellant would be subject to the remission policy of the appropriate State/Government.

16. Thus, we have no hesitation in setting aside the impugned order of the High Court dated 31.10.2023.

17. Accordingly, the order passed by the respondent No.2 also stands set aside. Respondent No.2 is directed to consider the case of the appellant afresh, in accordance with the policy governing, within a period of eight weeks from the date of receipt of a copy of this order.

18. The appeal stands disposed of, accordingly.

19. Pending application(s), if any, shall also stand disposed of.

……J.
[M.M. SUNDRESH]

……J.
[PRASANNA B. VARALE]

NEW DELHI;
OCTOBER 08, 2026.

ITEM NO.18 COURT NO.4 SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 16408/2024

[Arising out of impugned final judgment and order dated 31-10-2023 in CRWP No. 218/2023 passed by the High Court of Punjab & Haryana at Chandigarh]

GURMEJ SINGH Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date : 08-10-2026 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) Mr. Rajiv Kataria, Adv.
Mrs. Sunita Punia, Adv.
Mrs. Priyanka Tomar, Adv.
Mrs. Dolly Shivani, Adv.
M/S. Delhi Law Chambers- 1508, AOR

For Respondent(s) Mr. Rajat Bhardwaj, A.A.G.
Ms. Baani Khanna, AOR
Mr. Robin Singh, Adv.
Mr. Kapil Balwani, Adv.
Ms. Komal Thakkar, Adv.
Ms. Tejal Tapaswani Nagauri, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.
The appeal stands disposed of in terms of the signed order.
Pending application(s), if any, shall stand disposed of.

(ASHA SUNDRIYAL) (POONAM VAID)
DEPUTY REGISTRAR ASSISTANT REGISTRAR
[Signed order is placed on the file]