2026 INSC 490

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO.446 OF 2023

ROHIT CHATURVEDI ...PETITIONER

VERSUS

STATE OF UTTARAKHAND & OTHERS ...RESPONDENTS

WITH

MISCELLANEOUS APPLICATION NO.1370 OF 2024 IN WRIT PETITION (CRIMINAL) NO.446 OF 2023

AND

MISCELLANEOUS APPLICATION NO.2339 OF 2024 IN WRIT PETITION (CRIMINAL) NO.446 OF 2023

J U D G M E N T

NAGARATHNA, J.

The petitioner has filed the present writ petition seeking a writ of certiorari for quashing letter dated 09.07.2025 of the Ministry of Home Affairs (MHA) (for short "impugned letter") which rejected the recommendation of the State of Uttarakhand and

disallowed the plea of premature release of the petitioner who has been in jail for approximately twenty-two (22) years.

2. This case has a chequered history and its facts may briefly be adverted to. On the basis of a complaint dated 09.05.2003 of the elder sister of the deceased, Case No.162/2003 under Section 302 of the Indian Penal Code, 1860 (for short, "IPC") was registered at Mahanagar Police Station, Lucknow, Uttar Pradesh (U.P.) against the petitioner and other accused persons. The investigation was initially carried out by the U.P. State Police and thereafter by CB-CID. However, vide Notification dated 24.06.2003, the case was transferred to Central Bureau of Investigation (CBI). Pursuant to the investigation, the petitioner along with other co-accused faced Trial before the Sessions Judge, Lucknow, U.P. However, this Court, by its order dated 08.02.2007, in Transfer Petition No.456/2005, transferred the trial to Dehradun, Uttarakhand with a request to the then Chief Justice of Uttarakhand to create a Special Court for the trial of the case. The petitioner along with other co-accused was convicted for the murder of the deceased by the Special Judge, Dehradun vide judgment dated 24.10.2007 in

Sessions Trial No.411/2005 under Sections 120B/302 IPC and sentenced to life imprisonment and fine.

2.1 Aggrieved by the same, the petitioner preferred Criminal Appeal No.507/2007 before the High Court of Uttarakhand at Nainital but the same came to be rejected by judgment dated 16.07.2012 and the conviction and sentence awarded by the Trial Court was affirmed. The petitioner then preferred SLP (Crl.) No.7507/2013 against the judgment dated 16.07.2012. However, the same was also dismissed by order dated 19.11.2013 by this Court.

2.2 On 06.09.2022, the petitioner made a representation to the Principal Secretary, Office of the President of India seeking premature release from prison. The said representation was forwarded to the Chief Secretary, Government of Uttarakhand for proper action. Since no action was taken on the said representation, the petitioner approached the High Court of Uttarakhand at Nainital in Writ Petition (Crl.) No.2146/2022 seeking a writ of mandamus directing the State of Uttarakhand to consider premature release of the petitioner. The High Court by its

order dated 13.01.2023 directed the respondents to consider the premature release of the applicant within a week failing which the applicant would be released on bail. The State of Uttarakhand having failed to take a decision within a week, the petitioner approached the Trial Court for bail and was granted bail vide order dated 30.01.2023 by the Special Judge, Anti-corruption, Dehradun.

2.3 Subsequently, the petitioner received a letter dated 07.06.2023 wherein it was mentioned that the appropriate Government *vide* G.O. dated 07.05.2023 had rejected his premature release application and consequently, the petitioner was directed to surrender immediately. The petitioner, accordingly, surrendered on 17.06.2023 at District Jail, Haridwar, Uttarakhand.

2.4 Sometime later, the petitioner preferred Writ Petition (Crl.) No.896/2023 before the High Court of Uttarakhand at Nainital seeking a writ of mandamus directing the State of Uttarakhand to furnish grounds in support of the rejection of premature release of the applicant, which according to him were never furnished to him.

However, the said writ petition came to be dismissed as withdrawn by order dated 06.07.2023 with liberty to challenge the said decision, as the grounds were furnished by the State of Uttarakhand in the Court. Briefly put, the premature release was rejected on the ground that the petitioner fell within clause 5 of the Uttarakhand State (for Remission/Premature Release of Convicted Prisoners Sentenced to Life Imprisonment by Courts) Permanent Policy, 2022 which is a prohibited category for grant of premature release being a case investigated by the CBI under the Delhi Special Police Establishment Act, 1946.

By order dated 15.12.2023, this Court passed the following order in this Writ Petition:

> "… The point now being raised by the petitioner is that the Government of Uttar Pradesh would have been the proper authority for considering the remission plea as the offence had occurred within that State. This appears to be the position of law, as enunciated by a Coordinate Bench of this Court in the case of ***Radheshyam Bhagwandas Shah Alias Lala Vakil Vs. State of Gujarat and Another*** **reported in 2022 (8) SCC 552**. In this judgment, it was held:
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> > *"14. In the instant case, once the crime was committed in the State of Gujarat, after the trial had been concluded and judgment of conviction came to be passed, all further proceedings have to be considered including remission or premature*

release, as the case may be, in terms of the policy which is applicable in the State of Gujarat where the crime was committed and not the State where the trial stands transferred and concluded for exceptional reasons under the orders of this Court."

This being the position of law, the entire exercise conducted by the State of Uttarakhand appears to be without jurisdiction and hence not sustainable under the law. We, accordingly, direct that the remission plea which was filed by the petitioner-convict be sent to the Home Secretary, State of Uttar Pradesh by the State of Uttarakhand. This shall be done within a period of three weeks from date. Thereafter, the State of Uttar Pradesh shall examine the question and take a decision in that regard within a further period of eight weeks.

The State of Uttar Pradesh shall consider the plea without being influenced in any manner by the order passed by the State of Uttarakhand and any observation made therein.

The present petition shall stand disposed of in the above terms."

2.5 However, on expiry of the said period, since no action was taken by the State of U.P., the petitioner preferred a representation dated 11.03.2024 to the Additional Chief Secretary (Home Department), Government of U.P. highlighting the above issue and praying to consider his premature release in terms of the order dated 15.12.2023 passed in this Writ Petition. The State of U.P. having failed to decide on the premature release of the petitioner in terms of the order dated 15.12.2023 passed in this case by this

Court, the petitioner preferred an application before this Court. This Court, by its order dated 02.12.2024, recalled its earlier order dated 15.12.2023 on the ground that in ***Bilkis Yakub Rasool vs. Union of India, (2024) 5 SCC 481***, ***("Bilkis")*** this Court had held the judgment in ***Radheshyam Bhagwandas Shah vs. State of Gujarat, (2022) 8 SCC 552*** to be *per incuriam* and *non est* in law and had further held the appropriate Government as defined in Section 432(7), Code of Criminal Procedure, 1973 ("CrPC") for considering remission or suspension or commutation is the Government of the State in which the trial and conviction took place and not where the crime was committed. Accordingly, the application of the petitioner for remission was directed to be considered by the State of Uttarakhand on its own merits and in accordance with the applicable policy.

2.6 Thereafter, on 31.01.2025, this Court noted that the instant case was investigated by the CBI. Therefore, in terms of sub-Section (1) of Section 477 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS"), the State Government could take a decision on the prayer for grant of remission under sub-Section (1) of Section 473 of BNSS only after the concurrence of the Central

Government. Accordingly, it directed that the State Government shall forward its decision for concurrence of the Central Government and the appropriate authority of the Central Government shall take a decision within a period of one month from the receipt of the reference from the State Government. Noting no progress in the matter and considering the long period of incarceration, this Court granted interim bail to the petitioner on 21.05.2025.

2.7 On 28.07.2025, this Court recorded the submission of the State Government that the Ministry of Home Affairs (MHA), Union of India by the impugned letter dated 09.07.2025 had disallowed the recommendation of the State Government which had proposed to release the petitioner. However, since the same had not yet been communicated to the petitioner, this Court directed that the same be made within two weeks from the date of its order. Subsequently, the petitioner filed Crl. M.P. No.239654/2025 seeking amendment of this Writ Petition to add an additional prayer for a writ of certiorari quashing the impugned letter dated 09.07.2025 which disallowed the premature release of the petitioner. The same was

allowed and an amended petition in the above terms has been filed before us.

2.8 The counter affidavit on behalf of the Union of India/MHA has also been filed. The following is stated therein:

a) Since the present case was investigated by the CBI, the respondent-MHA sought comments of the CBI, and in response, the CBI furnished their comments by way of a letter dated 08.04.2025 stating that considering the seriousness of the crime committed by the petitioner, he may not be released in the interest of justice.

b) Subsequently, vide order dated 02.05.2025 this Court *inter alia* directed the CBI as well as respondent-MHA to immediately take a decision on the basis of the recommendation forwarded by the State of Uttarakhand and report compliance. Pursuant thereto, the Government of Uttarakhand by way of letter dated 12.06.2025 forwarded the proposal for premature release of petitioner to the MHA.

c) However, respondent-MHA communicated on 09.07.2025 to the State of Uttarakhand on their proposal of premature release of the petitioner, informing that it does not concur

with the proposal of Government of Uttarakhand for premature release of the petitioner.

d) The said decision was later communicated to the Advocate-on-Record of the petitioner by way of letter dated 30.07.2025.

3. We have heard learned counsel for the petitioner, learned standing counsel for the State of Uttarakhand, and learned ASG on behalf of the Union of India and have also perused the material on record.

3.1 Learned counsel for the petitioner submitted that the writ petition has been amended and an additional prayer has been sought seeking quashing of the impugned letter dated 09.07.2025 of the respondent-Union of India/CBI. By the impugned letter, the application filed by the petitioner for premature release/remission of his life sentence has been rejected. It was contended that the impugned letter is a non-speaking one and does not provide reasons for disagreeing with the recommendation of the State Government to release the petitioner. It was also brought to our notice that the Government of Uttar Pradesh, by notification dated

24.08.2023, has already granted the benefit of premature release to one of the co-accused, namely, Amarmani Tripathi who had undergone approximately seventeen (17) years of actual sentence and only twenty (20) years with earned remission, keeping in view his age and conduct. Therefore, the petitioner, who is in custody for more than 22 years, too, is entitled to the relief of remission of his sentence on the ground of parity. It was further argued that no purpose would be served in remanding the matter to the respondent-Union of India as on merits they have already decided, albeit incorrectly, that the petitioner is not entitled to the remission of his sentence having regard to the facts and circumstances of this case. The petitioner prayed that by order dated 21.05.2025, this Court had granted interim bail to him and that the said interim order may be extended pending disposal of this writ petition. Learned counsel for the petitioner stressed on the fact that the State of Uttarakhand had recommended premature release of the petitioner but it is the respondent-Union of India/CBI/MHA which has come in the way of granting relief of remission to the petitioner herein, hence the said order may be quashed.

3.2 Learned Standing Counsel for the State of Uttarakhand also confirmed that the State had recommended premature release of the petitioner. However, the respondent-Union of India has declined to grant the relief to the petitioner, hence appropriate orders may be passed in this case.

4. *Per contra*, learned Additional Solicitor General (ASG) Sri Banerjee appearing for the respondent-Union of India contended that there is no merit in this petition. The role of the petitioner in the crime has to be considered from the proven facts of this case, and it is apparent that the petitioner played a very significant role in the death of the deceased. Merely because the co-accused has been released from the prison is no reason to grant similar relief to the petitioner. The impugned letter holding that the petitioner is not entitled to the relief of remission has been rightly passed. Having regard to the facts and circumstances, the impugned letter may be sustained and the writ petition may be dismissed.

5. Having given our anxious consideration to the rival submissions and on perusal of the material on record, we are of the view that the impugned letter of the MHA which disallowed the

premature release of the petitioner ought to be quashed on account of it being a non-speaking and cryptic order. The letter, in relevant paragraph, noted:

> "3. The relevant documents having regards to all facts and material placed on record produced by the Government of Uttarakhand vide aforesaid letter, the judgements of the court of Special Judge/ Session Judge, Dehradun, Hon'ble High Court, Uttarakhand and Hon'ble Supreme Court of India were considered by the Competent Authority. After considering the above facts, documents and material on record, Competent Authority is not concurred with the proposal of the Uttarakhand Government for premature release of life convict, Rohit Chaturvedi s/o Suresh Chandra Chaturvedi."

Quite clearly, the letter is *ex facie* non-speaking, as it does not disclose any reason whatsoever for the conclusion arrived at by the Competent Authority. While it makes a bare reference to the consideration of certain documents, including the letter of the Government of Uttarakhand and the judgments of the Special Judge, Dehradun, the High Court of Uttarakhand, and this Court, it conspicuously fails to indicate what weighed with the Competent Authority in rejecting the proposal for premature release.

5.1 It is a 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. Recording of reasons is not an empty formality, it is a safeguard against arbitrariness and ensures transparency, fairness, and accountability in decision-making. The absence of reasons renders it bald and makes it impossible to ascertain whether relevant factors were duly considered or not.

5.2 In the present case, the order merely states that the Competent Authority "does not concur" with the proposal, without disclosing any basis for such disagreement. There is no discussion of the petitioner's conduct, applicable remission policy, or any specific adverse material, if at all, against the petitioner. The letter, therefore, fails to meet the minimum requirement of a reasoned order and reflects complete non-application of mind. Such a cryptic rejection not only violates the principles of natural justice but also frustrates the petitioner's right to seek effective judicial review as the absence of reasons deprives a constitutional Court of the opportunity to examine the propriety of the decision.

Executive discretion, though broad in matters of remission, is not uncanalised and must necessarily be exercised on relevant,

rational, and non-discriminatory considerations and not being rejected owing to irrelevant and extraneous reasons.

5.3 In this regard, we may usefully refer to the case of ***Laxman Naskar vs. State of W.B., (2000) 7 SCC 626***, in which the jail authorities were in favour of releasing the petitioner, but the review committee constituted by the State Government recommended the rejection of the claim for premature release on three grounds. They were *(i)* the two witnesses who had deposed during the trial as also the people of the locality were apprehensive that the release of the petitioner will disrupt the peace in the locality; *(ii)* that the petitioner being 43 years old had the potential of committing another crime; *(iii)* the incident is not an individual act of crime but a sequel of a political feud. This Court while placing reliance on ***Laxman Naskar vs. Union of India, (2000) 2 SCC 595*** stipulated certain factors that govern the grant of remission. These are namely:

(i) Whether the offence is an individual act of crime without affecting the society at large?

(ii) Whether there is any chance of future recurrence of committing crime?

(iii) Whether the convict has lost his potentiality in committing crime?

(iv) Whether there is any fruitful purpose of confining this convict anymore?

(v) Socio-economic condition of the convict's family.

Based on the above factors, this Court held in the said case that the decision to reject the claim of remission was based on irrelevant reasons. Consequently, the Court quashed the order of the government and directed it to consider the matter afresh, as under:

> "8. If we look at the reasons given by the Government, we are afraid that the same are palpably irrelevant or devoid of substance. Firstly, the views of the witnesses who had been examined in the case or the persons in the locality cannot determine whether the petitioner would be a danger if prematurely released because the persons in the locality and the witnesses may still live in the past and their memories are being relied upon without reference to the present and the report of the jail authorities to the effect that the petitioner has reformed himself to a large extent. Secondly, by reason of one's age one cannot say whether the convict has still potentiality of committing the crime or not, but it depends on his attitude to matters, which is not being taken note of by the Government.

> Lastly, the suggestion that the incident is not an individual act of crime but a sequel of the political feud affecting society at large, whether his political views have been changed or still carries the same so as to commit crime has not been examined by the Government."

5.4 In the instant case, even the bare attempt to give any reason, good or bad notwithstanding, is also not made out. On that basis alone, this Court can quash the impugned letter dated 09.07.2025 on the ground that it is a non-speaking order and remand the matter to the respondent–Union of India for fresh consideration. However, in our view, such a course would serve no useful purpose in the peculiar facts of the present case. The respondent–Union of India has defended its decision before this Court by contending that the petitioner is not entitled to remission having regard to the role attributed to him in the offence. The stand of the respondent on merits thus stands fully stated and conclusively articulated before this Court. 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. The principles governing the grant of remission, as distinct from commutation, pardon, and reprieve, may be understood with reference to the judgment of this Court in ***State (NCT of Delhi) vs. Prem Raj, (2003) 7 SCC 121 ("Prem Raj")***. Articles 72 and 161 of the Constitution of India deal with the clemency powers of the President of India and the Governor of a State, respectively. These provisions confer the power to grant pardons, reprieves, respites, or remissions of punishment, as well as the power to suspend, remit, or commute sentences in specified cases. Under Article 72, the President's power extends, inter alia, to (i) all cases where the

punishment or sentence is for an offence against a law relating to a matter to which the executive power of the Union extends; and (ii) all cases where the sentence is one of death. Similarly, Article 161 empowers the Governor of a State to grant pardons, reprieves, respites, or remissions of punishment, or to suspend, remit, or commute the sentence of any person convicted of an offence against a law relating to a matter to which the executive power of the State extends. In ***Prem Raj***, it was observed that the powers under Articles 72 and 161 are absolute in nature and cannot be fettered by statutory provisions such as Sections 432, 433, or 433-A of the CrPC akin to Sections 473, 474 and 475 of BNSS, or by prison rules.

6.1 The judgment in ***Prem Raj*** further clarified the distinctions between the various forms of clemency:

a) A pardon is an act of grace from the authority entrusted with the execution of laws, which exempts the individual from the punishment imposed for the offence committed. A pardon affects not only the punishment prescribed for the offence but also the guilt of the offender itself.

b) A pardon must, however, be distinguished from amnesty, which is a general pardon of political prisoners and an act of oblivion. Amnesty may result in the release of the convict, but it does not erase any disqualification incurred by reason of conviction.

c) A reprieve means a stay or postponement of the execution of a sentence, particularly a capital sentence.

d) A respite refers to the awarding of a lesser sentence instead of the prescribed penalty, having regard to mitigating circumstances, such as the absence of prior convictions, etc. It is akin to release on probation for good conduct under Section 360 of the CrPC akin to Section 401 of the BNSS.

e) Remission, in contrast, merely reduces the period of sentence without altering its character. In the case of remission, neither the conviction nor the guilt of the offender is affected. The sentence imposed by the court also remains intact, except to the extent that the convict is relieved from undergoing incarceration for the entire term awarded. Thus, remission only shortens the duration of actual imprisonment.

f) Finally, commutation involves the substitution of one form of sentence with a lighter sentence of a different nature.

In this context, Section 432 of the CrPC akin to Section 473 of BNSS empowers the appropriate Government to suspend or remit sentences.

6.2 In this regard, reference may be had to ***Sarat Chandra Rabha vs. Khagendranath Nath, AIR 1961 SC 334***, wherein this Court clarified that an order of remission does not interfere with or alter the judicial order of conviction and sentence. The conviction and sentence continue to stand exactly as passed by the court; only the obligation to undergo the entire term of imprisonment is curtailed. The power of remission, being an executive power, cannot produce the same effect as an appellate or revisional order reducing the sentence judicially imposed by the trial court and substituting it with a lesser sentence. The cutting short of a sentence by an act of clemency is an exercise of executive power which abridges the enforcement of the judgment, but does not alter the judgment itself.

6.3 The same principles were reiterated in ***State of Haryana vs. Mahender Singh, (2007) 13 SCC 606***, wherein this Court observed that the right of a convict to be considered for remission under the governing remission policy must surely be regarded as a legal right. Such a right emanates not only from the Prisons Act, 1894, but also from the Rules framed thereunder. Although no convict can claim remission as an absolute constitutional right, except under Articles 72 and 161, the existence of a remission policy nevertheless confers a legal entitlement to be considered for remission in terms of that policy. The Court further held that where a policy decision has been formulated, whether by statutory rule or otherwise, all persons falling within its ambit are entitled to equal treatment.

6.4 In ***Satish vs. 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.

7. Reverting to the present case, the faint ground invoked by the respondent-Union of India in support of rejection of the petitioner's plea for premature release is that the crime committed by the

petitioner was a heinous one. We wish to make it clear that in a constitutional polity governed by the rule of law, the denial of remission cannot rest solely on the ground of heinousness of the crime. As we have already stated above, remission is not an extension of the sentencing process, but a distinct executive function concerned with the present and future, namely, the prisoner's conduct, evidence of reformation, and prospects of reintegration into society. To predicate its denial only on the heinous nature of the offence is to collapse this distinction and to reconvert remission into a retrospective reaffirmation of guilt, which the criminal justice system has already adjudicated upon. The gravity and heinousness of the offence stand exhausted at the stage of sentencing and the judicial determination of punishment necessarily incorporates these considerations. A criminal justice system that refuses to look beyond the gravity of the offence to the offender's transformation will betray its reformative ideal particularly at the remission stage. Justice does not permit permanent incarceration of an individual in the shadow of their worst act.

7.1 The nature of the offence cannot, therefore, be the sole ground for denying remission. Emotive retribution is a course, incompatible with constitutional values. The decision on remission must emerge from a holistic assessment of the prisoner and after balancing societal interests with the prisoner's right to be considered for release on fair and reasonable criteria.

7.2 As Plato, the Greek Scholar and Philosopher, said any means, of word or deed, privilege or deprivation, that can be used to make the unjust man or the criminal, hate injustice and avoid recidivism are to be employed: the inculcation of an all but instinctive aversion to injustice "is quite the noblest work of law" (Thomas L. Pangle, The Laws of Plato, Basic Book Publishers, 1980). Thus, Plato reminds us to treat punishment as an instrument with a definitive end, namely, to produce in the offender an instinctive aversion to injustice sufficient to prevent recidivism. Reading this into the law of remission will yield a clear conclusion: a remission authority is not revisiting the gravity of the crime; it is assessing whether the purpose of punishment continues to subsist. In that sense, Plato supplies a legal test for remission decisions: If the offender's conduct and record in custody indicate that this "instinctive

aversion to injustice" has taken root, then continued incarceration becomes unnecessary and arguably contrary to its own objective. The deprivation of liberty no longer serves correction but becomes retribution. In a liberal constitutional order, punishment and all its incidents, including remission, must necessarily be justified through reason and not outrage.

7.3 Invoking Plato again, as this very court noted in ***Bilkis*** as follows:

> "1. ...punishment is to be inflicted, not for the sake of vengeance, for what is done cannot be undone, but for the sake of prevention and reformation (Thomas L. Pangle, *The Laws of Plato*, Basic Book Publishers, 1980). In his treatise, Plato reasons that the lawgiver, as far as he can, ought to imitate the doctor who does not apply his drug with a view to pain only, but to do the patient good. This curative theory of punishment likens penalty to medicine, administered for the good of the one who is being chastised (Trevor J. Saunders, *Plato's Penal Code : Tradition, Controversy, and Reform in Greek Penology*, Oxford University Press, 1991)."

In Plato's rejection of punishment as retroactive vengeance lies the deep insight that the past cannot be changed. Instead, punishment is justified only insofar as it serves a future-oriented purpose, namely, prevention, reform, and the restoration of order. The comparison between the judge and the doctor is also

significant. A doctor may incidentally cause pain through surgery or medicine, but the pain is not the objective, healing is. Likewise, punishment may involve suffering, but suffering itself is not normatively valuable. Its legitimacy comes only from its capacity to heal the individual and protect the *polis* (a political/civic community).

8. All relevant considerations necessary for adjudicating the petitioner's entitlement to remission already being before this Court, we will now proceed to examine the same on merits.

8.1 *Firstly*, the State Government of Uttarakhand had recommended the petitioner's premature release after considering the relevant factors pertaining to his incarceration and conduct. The learned Standing Counsel appearing for the State has also taken the stand before this Court that appropriate orders may be passed in the present case. Thus, the only impediment to the grant of remission is the refusal by the respondent–Union of India. The recommendation of the State assumes significance, as the State authorities are best placed to assess the petitioner's behaviour during custody, his reformation, institutional discipline, and the

likelihood of his reintegration into society. The fact that the State Government, after evaluating the petitioner's case in its entirety, found him fit for premature release shows that the petitioner satisfies the parameters ordinarily relevant for consideration of remission. This assumes importance particularly because the State Government, being directly concerned with prison administration and the implementation of remission policies, has not found any reason to deny the petitioner the benefit of premature release. In fact, the petitioner's custody certificate dated 16.05.2025 specifically records that his conduct during incarceration has been good.

8.2 *Secondly*, the petitioner has already undergone more than twenty-two years of incarceration. The petitioner having spent more than two decades in continuous custody, the sentence undergone by him is itself a relevant consideration while examining his entitlement to premature release/remission. The prolonged incarceration undergone by the petitioner demonstrates that he has already suffered the consequences of the conviction for an extensive duration and has remained subject to the rigours of imprisonment for a considerable part of his life.

8.3 *Thirdly*, one of the co-accused, namely, Amarmani Tripathi, has already been granted the benefit of premature release by the Government of Uttar Pradesh vide notification dated 24.08.2023 after undergoing approximately seventeen years of actual imprisonment and twenty years with earned remission. The petitioner's plea of parity is therefore founded on an admitted factual position arising out of the treatment accorded to another convict in the very same case. Despite this, the respondent–Union of India has opposed the petitioner's plea of premature release both in the impugned letter and before this Court by relying upon the role attributed to the petitioner in the offence. Once a co-accused in the very same offence arising out of the same incident has been granted the benefit of premature release after undergoing a lesser period of incarceration, the denial of similar consideration to the petitioner necessarily requires the existence of cogent, rational, and clearly discernible distinguishing circumstances. In the absence of such reasons, differential treatment between co-accused would fall foul of the constitutional requirement of fairness and non-arbitrariness. No such reasons are forthcoming in the present case.

8.4 *Fourthly*, the petitioner's case deserves to be considered in light of the reformative 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 vs. State of A.P., (1977) 3 SCC 287***, Krishna Iyer, J., while emphasizing the reformative 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 reformative 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 reformative object underlying remission and premature release policies particularly, when his co-accused has already been released.

9. In view of the cumulative reasons above, we have no hesitation to hold that the impugned letter dated 09.07.2025 of MHA which rejected the recommendation of the State of Uttarakhand and disallowed the plea of premature release of the petitioner is arbitrary, non-speaking, unsustainable in law and merit and is therefore set aside and quashed.

10. Since we have held that the petitioner is entitled to the benefit of premature release/remission and since he is already on interim bail, his surrender shall not be required, and the respondents shall treat him as having been prematurely released/remitted in terms of the present order.

11. This Writ Petition is allowed and disposed of in the aforesaid terms.

12. The Miscellaneous Applications are also disposed of in the aforesaid terms.

.....J.
(B.V. NAGARATHNA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
MAY 15, 2026.