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

% ***Reserved on: 22nd July, 2025***

Pronounced on: 30th January, 2026

\+ **W.P. (CRL.) 463/2025**

HARPREET SINGH
S/o Sh. Amrik Singh,
Residing at VPO Padri Kalan,
P.O. Chabhel,
District-Taran Taaran, Punjab

.....Petitioner

Through: Mr. Sumer Singh Boparai, Mr. Sirhaan Seth, Mr. Surya Pratap Singh, Mr. Abhilash Kumar Pathak and Mr. Piyush Kumar, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI)
Through Home Secretary
Delhi Secretariat,
Sachivalaya Road,
Indoor Stadium, Delhi-110001

.....Respondent

Through: Mr. Amol Sinha, ASC with Mr. Kshitiz Garg, Mr. Ashvini Kumar and Mr. Nitish Dhawan, Advs. And SI Manoj Kumar, PS: Chanakyapuri

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

सदा ऐश दौराँ दिखाता नहीं
गया वक़्त फिर हाथ आता नहीं

\- *मीर ग़ुलाम हसन*

1. This timeless couplet by *Mir Hasan* serves as a poignant reminder that the passage of time is relentless and that moments once lost, do not return. In the realm of criminal justice, this truth acquires profound significance, because prolonged incarceration without a meaningful reassessment of reform, turns punishment into retribution. For the Petitioner, the time became static since 2003 when he, a Guard in the President House, was put in jail for most heinous and depraved crime of Rape and Robbery committed on a young girl. No amount of remorse and reformation over this long period has proven to be of any worth, as his Remission has been consistently rejected twelve times, since 2016.

2. The present Petition compels this Court to examine whether earning Commendations and Certificates in more than two decades of incarceration of the Petitioner, reflects a reformation that underpins the constitutional and Remission framework or the gravity of offence committed two decades back, would remain unyielding constant factor while considering the remissions.

3. Writ Petition under Article 226 of the Constitution of India *read with* Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as "B.N.S.S."*) has been filed on behalf of the ***Petitioner, Harpreet Singh***, seeking *premature release* in accordance with the Policy dated 16.07.2004 issued by the Ld. Lt. Governor of Delhi (*hereinafter referred to as "L.G."*) and for setting aside the Minutes of the Sentence Review Board (*hereinafter referred to as "SRB"*) dated 23.02.2024,

whereby the Petitioner's plea for premature release was rejected, as well as the Order dated 15.10.2024 whereby the said Minutes of Meeting were approved by the Hon'ble L.G.

4. ***Briefly stated***, the Respondent, *vide* Order dated 16.07.2004 bearing No. F18/5/94/Home (Gen1), constituted the SRB to review the sentences awarded to prisoners undergoing life imprisonment upon conviction by a Court of Competent Jurisdiction in Delhi, and to make recommendations regarding cases of premature release, in accordance with the criteria formulated thereunder.

5. Petitioner, was convicted under S. 366/376/394/34 IPC by the Ld. ASJ, Patiala House Court, New Delhi, *vide* judgement dated 17.08.2009, in relation to the proceedings emanating from FIR No. 247 of 2003 registered at P.S. Chanakyapuri, New Delhi, under Sections 366/394/376(2)(g) of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*). He was sentenced to Rigorous Imprisonment for life along with a fine of INR 5,000, *vide* Order dated 22.08.2009. The Petitioner preferred an Appeal against conviction and Order on sentence before this Court, which was dismissed *vide* Judgment dated 23.08.2012.

6. The Petitioner has submitted that on 26.02.2013, while lodged at Central Jail No. 4, Tihar Jail, he was placed on the *commendation roll* by the Jail Superintendent, on account of his outstanding dedication and devotion in the maintenance work allotted to him. He displayed noteworthy diligence in the work assigned to him as a *sahayak*.

7. On 26.01.2014, the Petitioner was awarded a *Certificate of recognition* by the Jail Superintendent in appreciation of his "*good conduct and hard work*" and again on 15.08.2015 for "*hard work, maintaining*

discipline and helping prison administration."

8. On ***06.01.2016***, the case of the Petitioner was considered for premature release under the Policy dated 16.07.2004 and was ***rejected*** by the SRB. There was nothing adverse reported against the Petitioner, who had availed parole on (2) two occasions and furlough on (4) four occasions. The Petitioner participated in vocational and spiritual courses held in jail. The Petitioner's work and conduct in jail, were found to be satisfactory and the Petitioner's Hometown police did not oppose his premature release. The Delhi Chief Probation Officer recommended the Petitioner's premature release.

9. This pattern of rejection of Remission, continued for next 4 years, in subsequent SRB Meeting, held on 01.09.2016, 06.09.2017, 26.07.2018, 19.07.2019, and 28.02.2020, wherein the Petitioner's case was considered regularly by the SRB for premature release under the Policy dated 16.07.2004, but was consistently ***rejected***.

10. Thereafter, the exercise was repeated by SRB on 05.08.2020 and 11.12.2020, but the fate was the same, i.e. the rejection. The situation did not change, in the subsequent SRB meetings held on 25.06.2021 21.10.2021 and 30.06.2023 wherein the recommendation of SRB under the Delhi Prison Rules, 2018, was the same ***rejection. Nothing changed in these eleven* SRB Meetings *and the end result remained the same-rejection, except that the number of Paroles/ Furloughs kept increasing.***

11. Aggrieved by the Order of rejection by the SRB for the premature release of the Petitioner under the Delhi Prison Rules, 2018, the Petitioner *approached the Apex Court under Article 32 of the Constitution,* seeking directions to consider his case under the Policy dated 16.07.2004. *Vide*

Order dated 04.08.2023; the Petition was dismissed as withdrawn with liberty to approach this Court.

12. Subsequently, the Petitioner preferred ***W.P. (Crl.) 2283 of 2023*** on the ground that his case was being considered under the Delhi Prison Rules, 2018, which were not in existence on the date of the conviction of the Petitioner. Time was sought to place on record the final decision taken by the SRB, as his case was already under consideration. While the Petition was pending, the Petitioner met the same rejection by the SRB after consideration under the Delhi Prison Rules, 2018, vide Order dated 21.11.2023. The Petitioner consequently, withdrew W.P. (Crl.) 2283 of 2023 on account of it becoming infructuous.

13. On 23.01.2024, the Petitioner preferred another **W.P. (Crl.) No. 233 of 2024** assailing the Order dated 23.11.2023 on the ground that his case had been considered under the Policy under the Delhi Prison Rules, 2018, which were not in force on the date of his conviction. The Writ Petition was partially allowed *vide* Order dated 24.01.2024, and the Order of the SRB dated 30.06.2023 was set aside on the ground that it had considered the Petitioner's plea under the wrong Policy and it failed to consider the relevant factors mandated under the Policy dated 16.07.2004.

14. Pursuant to the directions of this Court, the case of the Petitioner was considered by the SRB on ***23.02.2024***, for premature release under the Policy dated 16.07.2004, but was again ***rejected, on the same ground*** *that "With the given back drop of* ***the heinous crime*** *committed by the convict the Board noted that such desperate crime shake the confidence of society and it may not be in the interest of the society at large to release such a convict.*"

15. The Minutes of the Meeting dated 23.02.2024 are reproduced as under:

> *"Harpreet Singh S/o Sh. Amrik Singh is undergoing life imprisonment in case FIR No. 247/2003, U/S 366/376(2)(G)/394/34 IPC, P.S. Chankya Puri, Delhi for committing rape and robbing a lady at Budha Jayati Park, Delhi.*
>
> ***The convict has undergone:***
>
> *Imprisonment of 20 years, 03 months and 07 days* ***in actual*** *and 24 years, 09 months and 22 days* ***with remission.***
>
> *This case has been considered under the guidelines-order dated 16.07.2004 Issued by the Govt. of NCT of Delhi i.e., policy that was existing on the date of conviction.*
>
> ***Conclusion:***
>
> *The Board considered the reports received from Police and Social Welfare Departments and took into account all the facts and circumstances of the case under which the offence was committed i.e., the convict was a public servant working as President's Body Guard and committed gang rape of a lady and robbed her in a public place, the manner/nature of the crime committed, gravity and perversity of the crime etc. The Board after discussion accordingly unanimously* ***REJECTS*** *premature release of convict premature release of convict Harpreet Singh S/o Sh. Amrik Singh."*

16. The Petitioner approached ***the Apex Court vide SLP (Crl.) No. 4763 of 2024*** seeking exemption from surrendering pending the outcome of his Application for premature release under the Policy dated 16.07.2004. The Petition was allowed vide Order dated 10.04.2024. *The Apex Court directed the Respondent State to take an appropriate decision on the Petitioner's Application for premature release, within a period of two months*. The time granted to the Respondent State was subsequently extended vide Order dated 19.07.2024.

17. On 06.09.2024, the Apex Court was apprised that the file could not be placed before the Ld. L.G. as the same was first required to be placed before the Chief Minister. Time was accordingly granted to the Respondent to seek instructions. *Vide* order dated 23.09.2024, the Respondent State informed the Apex Court that a decision regarding the Petitioner would be taken within a period of three weeks. Upon being apprised of the Order of the LG dated 15.10.2024, ***vide* which the Hon'ble LG was pleased to remit the unexpired portion of sentence of the 14 life convicts (Petitioner not being one) on the recommendations of the SRB in its Meeting held on 23.02.2024,** the Apex Court, *vide* Order dated 18.10.2024, directed the Petitioner to surrender within a period of two weeks, which was further extended for another two weeks. The Petitioner accordingly, surrendered before the Jail Authorities on 14.11.2024.

18. Aggrieved by the **last rejection of his release by the SRB *vide*** Order dated 23.02.2024, the Petitioner preferred ***W.P. (Crl.) No. 36 of 2025*** before the Apex Court. It was disposed of *vide* Order dated 20.01.2025, with liberty to the Petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

19. The Present petition has been filed for premature Release by the Petitioner on the ***grounds*** that he is a reformed individual, who has been placed on the commendation roll, awarded certificates of recognition on at least three occasions, participated in various activities, and worked in a diligent and disciplined manner during his 25 years of incarceration. It is submitted that although the Petitioner was convicted for a heinous offence, he has now lost the propensity to commit a crime, even as per the Jail Authorities. Despite this, the Petitioner's plea for premature release has been

rejected by the State on twelve (12) occasions, including most recently *vide* Order dated 23.02.2024.

20. It is stated that a bare perusal of the Minutes dated 23.02.2024 reveals that the SRB has acted arbitrarily and rejected the Petitioner's plea for premature release in a mechanical manner, amounting to defiance of the directions of this Court to consider the plea in accordance with the relevant factors enumerated under the Policy dated 16.07.2004. The Petitioner has, as of the date of filing the present petition, been incarcerated for a period of 25 years, 7 months and 2 days (including remission), which is beyond the period prescribed under Clause 3.1 of the said Policy dated 16.07.2004.

21. Reliance is placed on *Rashidul Jafar @ Chota v. State of Uttar Pradesh & Anr.*, 2022 SCC OnLine SC 120, wherein the Apex Court observed that due consideration and application of mind, must be exercised in accordance with the Policy formulated by the State for premature release of convicts.

22. It is further submitted that the ***National Human Rights Commission***, *vide* its Letter No. 233/10/97-98(FC) dated 26.09.2003, issued guidelines to all State Governments prescribing, inter alia, a maximum period of 25 years of incarceration for a convict. The continued incarceration of the Petitioner is also in contravention of his rights under Article 21 of the Constitution, which have been interpreted by this Hon'ble Court to include the right to live with dignity, humane treatment of prisoners and procedural fairness.

23. Custody Certificate dated 23.11.2024 of the Petitioner, reflects that he has been incarcerated for a period of ***25 years, 7 months and 2 days (including remission)*** and has therefore, surpassed the maximum period specified under the Policy dated 16.07.2004.

24. The Petitioner has maintained discipline, which has been recognised through Certificates of Recognition as well as by being placed on the Commendation Roll by the Superintendent, Central Jail No. 4, Tihar.

25. The Petitioner claims that the SRB has failed to consider the relevant factors for premature release, such as whether the convict has lost his potential for committing crime considering his overall conduct in jail, the possibility of reclaiming him as a useful member of society, and the socio-economic condition of his family. The said decision is therefore, violative of Article 14 of the Constitution of India.

26. It is agitated that this Court, *vide* Order dated 24.01.2024, directed the SRB to consider the relevant factors enumerated under the Policy dated 16.07.2004 while considering the Petitioner's application for premature release. A comparison of the operative parts of the Minutes dated 30.06.2023 (subsequently set aside by this Court) and the Minutes dated 23.02.2024 reveal that the SRB has paid no heed to the Orders of this Court and has simply rejected the Petitioner's plea, on extraneous considerations.

27. The Petitioner submits that the Apex Court has repeatedly held that a "*speaking order*" or a "*reasoned order*" is essential and failure to pass such an order, contravenes the principles of transparency and fairness, thereby undermining confidence in the adjudicatory function of the SRB.

28. The Petitioners' plea for premature release has been rejected on *twelve occasions solely on account of the heinous nature of the underlying crime,* despite categorical findings that the Petitioner has lost the propensity to commit crime. Reliance is placed on *Satish @ Sabbe vs. State of Uttar Pradesh,* (2021) 14 SCC 580, wherein the Apex Court observed that the length of the sentence or the gravity of the original crime cannot be the sole

basis for refusing premature release. It is claimed that the SRB has failed to appreciate the true meaning of reformation and rehabilitation, as opposed to retribution. Reliance is placed on *Joseph vs. State of Kerala*, 2023 SCC OnLine SC 1211.

29. Further, although it is within the discretion of the State Government to remit or suspend the sentences of convicts, such discretion cannot be exercised in a callous manner, where refusal of premature release is based not on facts or evidence but on vague, cursory, and unsubstantiated opinions of the State Authorities. Reliance is placed on *State of Haryana vs. Jagdish*, (2010) 4 SCC 216, wherein the Apex Court observed that the true objective of punishment in a welfare State must be rehabilitation and social reconstruction.

30. The Apex Court in a catena of judgments has emphasised the significance of the reformative approach in the criminal justice system. Reliance is placed on *Kokaiyabai Yadav v. State of Chhattisgarh*, (2017) 13 SCC 449, wherein it was observed that the object of the justice system is to reform and that it can serve as a method of reducing the incidence of criminal behaviour, either by incapacitating offenders and preventing them from repeating the offence, or by reforming them into law-abiding citizens. Reliance is also placed on the European Court of Human Rights judgment in *Vinter and Others v. the United Kingdom*, Appl. Nos. 66069/09, 130/10 and 3896/10.

31. It is submitted that this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, can direct the Jail Authorities to release the Petitioner prematurely. To support this submission, reliance is placed on *Vijay Kumar Shukla v. State (NCT of Delhi)*, 2024 SCC OnLine

Del 7805.

32. *Hence, it is prayed that the Minutes of the Meeting of the SRB dated 23.02.2024 rejecting the Petitioner's plea for premature release, as well as the Order dated 15.10.2024of approval of minutes by the Ld. L.G., be set aside, and the Petitioner be directed to be released prematurely in terms of the Policy dated 16.07.2004.*

33. ***Status Report has been filed on behalf of the Respondent/State***, wherein it is stated that the Petitioner was convicted in FIR No. 247/2003 registered under Sections 366/394/376(2)(G)/34 IPC for the offence of rape and robbery of a lady in broad daylight, at Buddha Jayanti Park. At that time, the Petitioner was a public servant working as a President's Bodyguard. As on 22.04.2025, the Petitioner has served 20 years and 11 months of imprisonment.

34. The case of the Petitioner was considered by the SRB on 23.02.2024 in terms of the Policy dated 16.07.2004 and was rejected. Earlier also, the case of the Petitioner had been considered and rejected 11 times. The Minutes of Meeting dated 15.10.2024 were conveyed, wherein out of 92 convicts, 14 cases were considered for premature release and 78 cases, including that of the Petitioner, were rejected.

35. ***Written Submissions have been filed on behalf of the Petitioner***, wherein the grounds of the Petition were reiterated. It is asserted that during custody, the Petitioner has consistently demonstrated good conduct and is now a reformed individual who, even as per the Jail Authorities, has lost his propensity to commit crime. It is further contended that the Petitioner has undergone incarceration beyond the maximum period envisaged under the Policy dated 16.07.2004, and that *the heinous nature of the crime cannot be*

the sole ground for rejecting the plea for premature release.

36. Emphasis has also been laid on the principle that reformation is the cornerstone of the Indian Criminal Justice System. It is further submitted that the Constitutional Courts can direct premature release of a convict, as exercised in *Joseph*, (supra), *Satish @ Subbe*, (supra), *Vijay Kumar Shukla* (supra), *Wahid Ahmed v. State (NCT of Delhi)*, 2022 SCC OnLine Del 2948, and *Bhagwal Saran v. State of U.P.*, (1983) 1 SCC 389. *Accordingly, it is prayed that the present Petition be allowed*.

37. ***Detailed written submissions have been filed on behalf of the Respondent/State***, wherein it is submitted that with respect to Prayer (a) seeking setting aside of the order rejecting the Application of the Petitioner, it is the settled law that a convict has no inherent right to claim premature release. The right of the Petitioner is limited in this regard. Reliance has been placed on *Union of India v. V. Sriharan*, (2016) 7 SCC 1; *State of Haryana v. Mahender Singh*, (2007) 13 SCC 606; and *Santosh Kumar Singh & Ors. v. State*, in W.P.(Crl.) 1431/2023 decided on 01.07.2025,

38. It is further submitted that as and when the Petitioner applied for premature release, his case was duly considered in terms of the Policy. The SRB, while rejecting the case of the Petitioner, duly considered the relevant factors as required by law. Rule 1251 of the Delhi Prison Rules, 2018 lays down the eligibility criteria for premature release, wherein factors such as the convict losing potential for commission of crime, the possibility of reclaiming the convict as a useful member of society and the socio-economic condition of the convict's family are to be factored in. It is submitted that the decision of the SRB was taken after due appreciation of all relevant factors.

39. A perusal of the Minutes of Meeting dated 23.02.2024 reflects that the SRB has duly considered the nature of the crime committed by the Petitioner, his unsatisfactory conduct in jail in view of punishments imposed, the gravity and heinousness of the crime, along with the post-conviction criminal acts committed by him, while rejecting his early release.

40. It is further submitted that even if the Social Welfare Department recommends the release of a convict, premature release cannot be claimed as a matter of right. Reliance has been placed on *Nazir Khan v. State*, 2022 SCC OnLine Del 4458, wherein the Coordinate Bench of this Court upheld the decision rejecting premature release by the SRB despite a recommendation by the Social Welfare Department. Therefore, it is submitted that the Impugned Order dated 23.02.2024 passed by the SRB is in accordance with law.

41. In respect to ***Prayer (b)***, seeking the immediate release of the Petitioner, it is submitted that even if there is some merit in the argument advanced by the Petitioner, *this Court cannot grant pre-mature release*. The exercise of power of remission by this Court is beyond the scope of judicial review, as held by the Apex Court in *State of Haryana & Ors. v. Daya Nanda*, in SLP (Crl.) No. 10687/2022 and *Jagdish*, (supra). Reliance has also been placed on *Ram Chander v. State of Chhattisgarh*, 2022 SCC OnLine SC 500, wherein the Apex Court observed that while the Court can review the decision of the Government to determine whether it was arbitrary, it cannot usurp the power of the Government and itself grant remission. If the decision is found to be arbitrary, the authorities may be directed to consider the case afresh. Similar observations have been made in *Rajan v. State of T.N.*, (2019) 14 SCC 114; *Shashi Shekhar v. State (NCT of*

Delhi), 2016 SCC OnLine Del 6284; and *Santosh Kumar Singh & Ors. v. State*, W.P.(Crl.) 1431/2023

42. It is further submitted that in *State v. H. Nilofer Nisha*, (2020) 14 SCC 161, the Apex Court, while holding that a Writ of Habeas Corpus would not lie for securing premature release of a life convict, observed that the Court cannot exercise such powers, though if exercised, the Court may hold that the exercise of power was not in accordance with the Rules framed by the authorities. It was further observed that the proper course is to direct that such Representation be decided within a short period. However, in the above case, the Apex Court, while exercising its powers under Article 142, directed release, which itself reflects that such powers ideally should not be exercised under Article 226 of the Constitution.

43. *Hence, it is prayed that the present Petition is without any merit and ought to be dismissed*.

44. ***Additional Written Submissions have been filed on behalf of the Petitioner***, wherein the earlier submissions have been reiterated. Emphasis has been laid on the fact that the Petitioner has lost the propensity to commit crime considering his overall conduct in jail. It is further asserted that the Petitioner's socio-economic condition is poor and he bears the responsibility of his aged parents, his wife, and two minor children.

45. *Accordingly, it is prayed that the present Petition be allowed*.

Submissions Heard and Record Perused.

I. The Penological Paradigm: Reformative Theory and the Jurisprudence of Remission:

46. The evolution of criminal jurisprudence has witnessed a profound

shift from the archaic, retributive *"lex talionis"* (an eye for an eye) to a more humane, therapeutic, and reformative approach. In the modern times, State governed by the Constitution which resonates due process and Rule of Law, *punishment* is no longer viewed merely as a punitive mechanism for social vengeance or a tool for the physical neutralization of the offender. Instead, it is increasingly seen as a corrective process aimed at the eventual reintegration of the individual back into the fold of society.

47. This shift is best encapsulated in the Reformative Theory of Punishment, which posits that the primary objective of the penal system is to transform and to integrate the offender in the Society as law-abiding citizen.

48. The ***Reformative Theory*** operates on the premise that crime is often a product of socio-economic factors, psychological impulses, or environmental circumstances, rather than an *inherent "evil" in the individual.* Consequently, if the cause of the crime is addressed through education, discipline, and psychological counseling within the prison walls, the offender can be "cured."

49. In this regard, reference may be made to the seminal judgment of *Mohd. Giasuddin v. State of A.P.,* (1998) 7 SCC 392 and observed as under:

> *"If the psychic perspective and the spiritual insight we have tried to project is valid, the police billy and the prison drill cannot 'minister to a mind diseased nor tone down the tension, release the repression, unbend the perversion, each of which shows up as debased deviance, violent vice and behavioural turpitude. It is a truism, often forgotten in the hidden vendetta in human bosoms,* ***that barbarity breeds barbarity, and injury recoils as injury, so that if hearing the mentally or morally maimed or malformed man (found guilty) is the goal, awakening the inner being, more than torturing through exterior compulsions, holds out better***

curative hopes."

50. As the adage goes, the law must ***"hate the sin, but not the sinner."*** In the Indian context, this theory finds its roots in the Constitutional guarantees of Article 21, which ensures that the fundamental right to life and personal liberty is not entirely extinguished upon conviction. A prisoner does not forfeit all their human rights merely because he is behind bars; he remains a "person" entitled to dignity and the hope of redemption.

Remission - The Incentive for Change:

51. Remission is the institutional manifestation of the Reformative Theory. It serves as a bridge between the controlled environment of the prison and the freedom of society. By providing for the reduction of a sentence based on good conduct, the State acknowledges that the individual has demonstrated a genuine change of heart and is no longer a threat to the public order.

52. Remission acts as a powerful psychological incentive to prompt behavioural changes. Without the hope of eventual release, a life sentence becomes a "living death," leading to despondency and *a total lack of motivation for the prisoner to improve themselves.* Conversely, the possibility of remission encourages discipline, participation in vocational training, and the maintenance of peace within the prison ecosystem; a change of heart. The complexity of human mind cannot always be deciphered with certainty, while remorse and repentance become evident from the change of behavior.

53. The landmark judgment in *State of Gujarat v. High Court of Gujarat*, (1998) 7 SCC 392, provides a seminal discussion on the reformative goals of

the Indian prison system. While the primary issue in the said case pertained to the payment of wages to prisoners for hard labor, the Supreme Court took the opportunity to delve deep into the philosophy of incarceration. It observed that the modern trend in penology is to treat the prisoner as a human being who is capable of reformation. The objective of imprisonment is to prepare the offender for a productive life after release. Hard labor in prison is not meant to be a form of torture, but a means to impart skills and to develop a sense of discipline. The prison system should function as *"corrective machinery*." The deprivation of liberty is the punishment itself; the period of incarceration should be utilized to "repair" the individual's moral and social compass. It was observed by Apex Court in *State of Gujarat, (supra)* as under:

> *"Reformation should hence be the dominant objective of a punishment and during incarceration every effort should be made to recreate the good man out of a convicted prisoner. An assurance to him that his hard labour would eventually snowball into a handsome saving for his own rehabilitation would help him to get stripped of the moroseness and desperation in his mind while toiling with the rigours of hard labour during the period of his jail life. Thus, reformation and rehabilitation of a prisoner are of great public policy. Hence they serve a public purpose.* ***Reformative approach is now very much intertwined with rehabilitative aspect to a convicted prisoner****. It is hence reasonable conclusion from the above discussion that a directive from the court under the authority of law to subject a convicted person (who was sentenced to rigorous imprisonment) to compulsory manual labour gets legal protection under the exemption provided in Clause (2) of Article 23 of the Constitution because it serves a public purpose."*

54. This judgment underscored that *"prisons are not black holes"* where human rights are suspended. By mandating that prisoners be paid for their work, the Court recognized their agency and the need to preserve their self-respect, which is essential for successful reformation.

55. In the context of remission, the rationale of *State of Gujarat*, (supra) implied that if the State compels a prisoner to undergo reformative processes, such as labor, education, and disciplined living, it must also recognize and reward the successful outcome of those processes. To keep an individual incarcerated long after they have achieved the goal of reformation, is not only penologically redundant but also a violation of the spirit of the Reformative Theory.

56. In summary, the reformative theory suggests that the "*gravity of the offense*" belongs to the past, while the "*conduct of the prisoner"* belongs to the present and the future. ***Remission is the mechanism that honors this transition.***

57. The case of the Petitioner needs to be viewed through the lens of this reformative philosophy, assessing whether the State's refusal to grant him remission aligns with the objective of redemption.

II. Remission: Genesis, Rationale, and Objective of the Policy, 2004 and Delhi Prison Rules, 2018:

58. The first formulation of remission was the ***Remission Policy, 2004.*** This Policy did not emerge in a vacuum. Its genesis lies in the reformative push of the late 20th century, specifically in 1999 when the National Human Rights Commission (NHRC) advocated for transparency, uniformity, and

procedural fairness in the grant of remission to ensure that *"prisons do not become black holes"* of arbitrary detention.

59. Then, in 2003 the Ministry of Home Affairs introduced the *Model Prison Manual for the Superintendence and Management of Prisons in India*, which sought to harmonize State-level Rules with International Human Rights standards.

60. The objective of the 2004 Policy was to provide a structured, rule-based system for the SRB. It was designed to move away from purely discretionary, whimsical executive action toward a clinical assessment of whether a convict has lost their propensity to commit crime.

61. It established the primary thresholds for release: *14 years of actual imprisonment for standard life sentences and a maximum of 25 years (including remission) even for the most* ***heinous*** *categories of crime.*

62. The Apex Court emphasized in *Jagdish,* (supra), that the State authorities are duty-bound to exercise their discretion in accordance with the convict's genuine expectation, at the time of conviction, that his case for premature release would be considered under the short-sentencing Policy then in force. The power of remission must be applied liberally in favour of the convict, depending on the facts of each case and with reference to the applicable policy.

63. There was a "*systemic overhaul*" by enactment of the ***DPR, 2018*** that codified these Executive Orders into Statutory Rules. The principles of the 2004 Policy served as the blueprint for the Delhi Prison Rules, 2018 (DPR), which laid down a detailed procedure to govern prison administration in Delhi. Rules enacted under the Delhi Prisons Act, 2000, codified the release procedures, moving the process from the realm of administrative discretion

to a structured, statutory obligation.

64. The DPR were designed to cure the defects of the 2004 policy, specifically the lack of uniformity and the tendency towards mechanical rejections, by a rigorous, multi-factor evaluation process detailed in statutory Rules.

65. The Sentence Review Board has been formally reconstituted under Chapter-XX of the DPR, with ***Rule 1247 providing for*** a high-level multi-disciplinary body comprising the Minister of Home (Chairman), Principal Judge (Family Courts), Principal Secretary (Home/Law/Justice), Director General of Prisons, and the Chief Probation Officer.

66. Unlike the earlier ad-hoc approach, DPR 2018 mandates a detailed procedure to be followed by SRB and it is not a casual exercise taken by the SRB in a routine manner.

67. This raises a question as to which Policy shall be applicable to the Petitioner. It is a settled principle of criminal jurisprudence, as articulated by the Apex Court in *Jagdish*, (supra) that the remission Policy applicable to a convict, is the one that was in force on the date of his conviction. *Further, if on the date of consideration of a life convict's case, a more liberal policy is in force, and the benefit of such Policy should be extended to him.*

68. Similar observations were made by the Apex Court in *Joseph v. State of Kerala*, 2023 SCC OnLine SC 1211. while considering the question of applicable Policy, it referred to the case of *Jagdish*, (supra) and observed as under:

> *"**20.** A reading of the observations of this court in State of Haryana v. Jagdish, which was followed in State of Haryana v. Raj Kumar, makes the position of law clear: the remission policy prevailing on the date of conviction, is to*

> *be applied in a given case,* ***and if a more liberal policy exists on the day of consideration, then the latter would apply.*** *This approach was recently followed by this court in* Rajo v. State of Bihar 2023 SCC OnLine SC 1068 *as well."*

69. These observations were endorsed in *Rajkumar v. State of U.P.*, (2024) 9 SCC 598. It was specifically noted that the NHRC Guidelines of 2003, which prescribe a mandatory release after 25 years of incarceration (even for heinous crimes), constitute a more beneficial policy for the accused and must be taken into account during the review process.

70. The rationale behind this rule is rooted in the "*vested expectation*" of the prisoner. At the time of conviction, the legal framework provides a certain path toward redemption; the State cannot later unilaterally shift the goalposts to the detriment of the accused, by applying a more stringent subsequent Policy.

71. The Apex Court in the Writ Petition **W.P.(Crl.) No. 233 of 2024** decided on 24.01.2024, set aside the Order of the SRB dated 30.06.2023, on the ground that it had considered the Petitioner's plea under the wrong Policy and it failed to consider the relevant factors mandated under the Policy dated 16.07.2004.

72. **It is therefore, established that** because the Petitioner was convicted in 2009, **the Policy, 2004** notified *vide* Notification No. F.18/5/94/Home (Genl) dated 16.07.2004, **is applicable to the Petitioner,** which explicitly envisions that even a life sentence in the most heinous category, **should ordinarily not exceed 25 years of total incarceration. However, the petitioner is also entitled to any beneficial provisions in DPR,2018.**

III. The Procedure and Parameters for Remission:

73. The Petitioner is in judicial custody since 08.10.2003 for robbery and Rape of young girl, while he was serving as Presidential Guard. He was convicted on 17.08.2009 and sentenced on 22.08.2009. To adjudicate upon the legality of the Petitioner's continued incarceration, two aspects need consideration: firstly, *the procedure* and secondly, *the correct legal parameters for making this assessment.*

(i) ***Procedure to be followed by SRB:***

74. The entire procedure to be followed by the SRB has been detailed in Rule 1256 of DPR, 2018 and the same is extracted as under:

> *"**Procedure:***
>
> ***1256.*** *The Procedure to be followed for eventual consideration by the SRB under the rules for every life convict eligible shall be as follows:-*
> ***i.*** *Every Superintendent in charge of a prison shall initiate the case of a prisoner at least three months in advance of his/her becoming eligible for consideration for premature release as per the criteria laid down for eligibility of premature release of life convicts.*
> ***ii. The Superintendent prison shall prepare a comprehensive note for each prisoner,*** *giving his family and societal background as per the record of the case, the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. The Superintendent shall also reflect fully on the conduct and behaviour of the prisoner in the prison during the period of his incarceration, and during his/release on probation/ leave, change in his/behavioural pattern, and prison offences, if any, committed by him/and punishment awarded to him for such offences. A report shall also be made about his physical and mental health or any serious ailment with which the prisoner is suffering, entitling him for premature*

release as a special case. ***The note shall contain recommendation of the Superintendent i.e., whether he favours the premature release of the prisoner or not. In either case such recommendation shall be supported by adequate reasons.***

iii. The Superintendent of the jail shall make a reference to the Deputy Commissioner of Police/ Superintendent of Police of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the Jail. *However, in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police/ Superintendent of Police of the district in which the offence was committed in either case,* ***he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police/ Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner.***

iv. *On receipt of the reference, the concerned Deputy Commissioner of Police/ Superintendent of Police shall cause an inquiry to be made in the matter through a senior police officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Deputy Commissioner of Police/ Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/ apprehensions.* ***In case the concerned Deputy Commissioner of Police/ Superintendent of Police is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and material.*** *He shall return the reference to the Superintendent of the concerned Jail not later than 30 days from the receipt of the reference.*

v. *The Superintendent of Jail shall also make a reference to the* ***Chief Probation Officer*** *and shall forward a copy of his*

note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. ***He will not act mechanically and recommend each and every case for premature release.*** *In either case he should justify his recommendation by reasoned material.* ***The Chief Probation Officer shall furnish his report with recommendations to the Superintendent of the Jail not later than 30 days from the receipt of the reference.***

vi. *On receipt of the report/ recommendations of the Deputy Commissioner of Police/ Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Inspector General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Inspector General of Prisons shall examine the case, bearing in mind the report/ recommendations of the Superintendent of Jail.* ***Deputy Commissioner of Police/ Superintendent of Police and Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.***

75. The core of the DPR 2018 is ***Rule 1257***, which is extracted as under:

*"***1257.** *The Board shall follow the following Procedure and Guidelines while reviewing the cases and making its recommendations to the competent authority.*

a) *The Inspector General of Prisons with the prior approval of chairman shall convene a meeting of the Sentence Review*

Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. ***the note of the Superintendent of Jail recommendations of the Deputy Commissioner of Police/ Superintendent of Police, Chief Probation Officer and Inspector General of Prisons along with the copies of documents, if any.***

b) *A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary (Home). The Member Secretary (Inspector General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The board shall consider the case and take a view. As far as practicable, the Sentence Review Board shall endeavour to make unanimous recommendation.* ***However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board.*** *If equal numbers of members are of opposing views, the decision of the chairman will be final. However, the views of the opposing members should be recorded.*

c) *While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty/ remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The paramount consideration before the Sentence Review Board* ***being the welfare of the prisoner and the society at large. The Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release. The Board shall take into account the circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again.***

d) *Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board*

will not be ***a bar for reconsideration of his case****. However, the reconsideration of the case of a convict already rejected shall be after* ***the expiry of a period of Six months*** *from the date of last consideration of his case.* ***It is prescribed that decision of the case of a convict of premature release should be through speaking order in writing.***

e) *The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The* ***competent authority may either accept the recommendations of the Sentence Review Board or reject the same on grounds to be stated or may ask the SRB to reconsider a particular case****. The decision of the competent authority shall be communicated to the concerned prisoner and in case the competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith with or without conditions.""*

76. From the aforesaid Rules, it emerges that there is a detailed procedure to be followed. The Committee constituted by the Members from Bureaucracy, Government, Police and Social Welfare Department, is required to undertake the remission cases every six months, in case of rejection.

77. Rule 1257 provides that the Notice of the Meeting of SRB shall be accompanied with a complete Agenda papers i.e. *Note of Superintendent of Jail, Recommendation of DCP/ Superintendent of Police, Chief Probation Officer and Inspector General of Prisons* along with the copies of documents.

78. The decision, based on the aforesaid Reports and documents, are to be taken together by all the Members of the SRB. However, *in case of a dissent*, the majority view shall prevail and shall be deemed as the decision

of the Board. Not only this, the decision of the SRB has to be a *speaking Order in writing.*

79. The ***next significant aspect*** which emerges from these two Rules is that the *recommendations of the SRB are required to be placed before the Competent Authority without delay, for consideration.* However, *the Competent Authority is not bound by the recommendations of the SRB*. It may accept or reject the recommendations on the grounds to be stated therein or it may even send back the Minutes for reconsideration of a particular case. A significant deviation in this Policy was *that premature release should not ordinarily be declined merely because the police have not recommended it*. Instead, the Board must take into account the circumstances in which the offence was committed and assess *whether the prisoner still has the propensity or likelihood to commit such or other offences again.*

80. *Sub-rule (d)* provides that rejection of a prisoner's case for premature release on one or more occasions, shall not bar reconsideration of the case. However, such reconsideration can take place only after a period of six months has elapsed from the date of the last consideration. The Rule further mandates that any decision of the SRB on premature release, must be given through ***a reasoned and speaking order in writing, reflecting proper application of mind.***

81. A critical distinction in the transition from 2004 Policy to DPR, 2018 is that while the 2004 Policy provided an outer limit or ceiling of 25 years for incarceration, the DPR 2018 focuses more on a *"dual threshold*" - requiring a minimum of 20 years (including remission) and not less than 14 years of actual imprisonment for heinous crimes, *but notably omitting the*

25-year cap found in the 2004 Policy. This distinction is vital for the Petitioner.

82. Significantly, there has been a practical adherence to the consideration of the case of the Petitioner, after six months of rejection, but it has been essentially a formality completed, with no strict adherence to the spirit of the Procedure. This is reflected from the fact that in the last Meeting of SRB held on 23.02.2024, 92 cases were considered, out of which only 14 were approved. The sheer number of cases which are listed on a particular day and the manner of the preparation of the Minutes, reflects that there is in fact no mindful exercise of consideration of each case; ***rather, it is being done in a routine manner.***

83. This is further corroborated by the Minutes of SRB in this particular case where since 2016, recommendations are nothing but a routine copy-paste exercise with no change in appreciation of facts. Not only this, but there has been *mechanical acceptance* of these recommendations of SRB, by the Competent Authority.

(ii) <u>Factors for Consideration of Remission:</u>

84. The second aspect are the **relevant parameters** and whether they were genuinely considered in the SRB Minutes.

85. The **Policy dated 16.07.2004** provides for the eligibility criteria for the premature release, as under:

> ***"Eligibility for premature release:***
>
> ***3.1*** *Every convicted prisoner whether male or female undergoing sentence of the imprisonment and covered by the provisions of Section 433 A 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 itself 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 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.*

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-mediation and with exceptional violence of perversity.

c) Convicts whose death sentence has been commuted to life imprisonment."

86. The Policy dated 16.07.2004 lays down several conditions, which are:

(i) Whether the convict has lost his potential for committing crime considering 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) Socio-economic condition of the convict's family.

87. The Policy further provides that convicts sentenced for capital offences must undergo a total period of imprisonment, including remission, *subject to a minimum of 14 years of actual imprisonment before being considered for release, and ordinarily the total period of incarceration in such cases should not exceed 20 years.*

88. It also stipulates that certain categories of prisoners undergoing life imprisonment categories, which include convicts of heinous murders, such as murder with rape, murder with dacoity, murder under the Protection of Civil Rights Act, dowry deaths, murder of a child below 14 years, multiple murders, murders committed inside jail or during parole, murders committed in terrorist incidents, murders committed during smuggling operations, or the murder of a public servant on duty, *shall be eligible for consideration of premature release only after completion of 20 years of imprisonment including remissions, and even in such cases the total period of incarceration should not exceed 25 years.*

89. The Policy further covers gangsters, contract killers, smugglers, drug traffickers and racketeers convicted of murder, as well as murders

committed with premeditation and involving exceptional violence or perversity.

90. Rule 1256 and Rule 1257, Delhi Prison Rules, 2018 also define the relevant parameters and provide that the Board shall consider the circumstances of the crime and the previous criminal history which is to be highlighted in the **Police Report**; the conduct during incarceration which is reflected in the **Report from the Jail Superintendent**; the likelihood of committing the offence and the socio-economic potential of an individual, is reflected in the **Social Welfare Reports, wherein** *Chief Probation Officer/Social Welfare Officer* assesses the convict's family ties, acceptance by the community, and psychological readiness for release. All these factors are to be considered comprehensively to assess if the Convict if given remission, would integrate in the social fabric of the Society.

91. In the case of *Santosh Kumar Singh,* (supra), the relevant factors for the Board to consider, as encapsulated in these Rules, were stated thus:

a. **Circumstances of the Crime**: While the heinousness of the crime remains a factor, the judgment clarifies that under DPR 2018, it cannot be the sole determinant for rejection in perpetuity.

b. **Conduct during Incarceration:** This is a significant evolution from 2004. The Board must evaluate the convict's prison behavior, rewards earned, work performed, and participation in reformative activities.

c. **Previous Criminal History:** Whether the convict is a first-time offender or a habitual criminal.

d. **Likelihood of committing offending, in future:** A risk assessment regarding whether the convict, if released, would commit a crime or breach public peace.

e. **Socio-Economic Potential:** The potential for the convict to reintegrate into society and rehabilitate themselves.

92. Thus, for grant of Remission, it is a multi-faceted exercise to be conducted on the basis of Report of Superintendent of Jail, Police Report submitted by DCP/SP, Chief Probation Officer explaining the conduct of the Convict and also indicating the social integration and if there is any propensity or likelihood of commission of offence.

93. The question before the Board to answer while considering the case of remission, is *whether the prisoner has genuinely undergone reformation, such that they no longer pose a threat to society and can be safely reintegrated;* thus, striking a balance between the right of a convict and the welfare of the society.

IV. Chronology of Rejections: The SRB's Institutional Resistance

94. The Petitioner's journey through the Sentence Review process is a testament to what may be aptly described as a "*mechanical and cyclostyled*" administrative approach. Despite completing 25 years of incarceration, which is more than the mandatory period for consideration for remission and maintaining an exemplary record within the prison walls, Petitioner's plea for premature release has been rejected by the SRB on twelve occasions, commencing from 06.01.2016 till 23.02.2024.

a) Initial Rejections and the "Heinousness" Barrier (2016–2017) Under the Policy, 2004:

95. The pattern of rejection began in 2016 even as the Petitioner's conduct was being lauded by jail authorities.

96. The SRB rejected his plea on 06.01.2016 despite noting that his work and conduct were satisfactory, he had participated in vocational/spiritual courses, and the Chief Probation Officer had recommended release. The sole ground for rejection was the ***"heinous nature of crime"***. The Minutes read as under:

> *"The convict is undergoing life imprisonment in case FIR No.147/2003, U/S 366/376/394/34IPC, Police Station Chankya Puri, Delhi for committing rape of a young girl forcibly.*
> *The convict has already undergone an actual sentence of 12 years, 01 month & 23 days excluding the remission as on 30th of November 2015. He has undergone a total period of 14 years, 02 months & 05 day including the remission earned by him. He has availed parole 02 time and furlough 04 times. Nothing adverse has been reported against him during parole/furlough. He participated in vocational and spiritual courses held in jail. His work and conduct has been satisfactory in jail.*
> ***The Ld. Addl. Session Judge opposed the premature release in view of heinous nature of offence**. The report from Delhi Police is awaited inspite of multiple messages, thus presumed as not opposed, but opposed in the meeting in view of heinous nature of crime and gravity of offence. The home town police has not opposed his premature release. The Delhi Chief Probation Officer has recommended premature release of the convict. Report from home town is awaited in spite of multiple messages, thus presumed not opposed.*
> ***After taking into account the overall facts of the case, heinous nature of crime, the Board REJECTS the premature release of the convict.**"*

97. Again on 01.09.2016, despite no adverse reports during parole or furlough, with no opposition from Home-town Police, and recommendation

of the *Delhi Chief Probation Officer, the* Board rejected the plea, stating they were ***"not convinced"*** because of the ***nature of the crime*** and an unsubstantiated assertion that he ***"has not yet lost his potential to commit such crime"***. The Minutes read as under:

> *"Convict Harpreet Singh s/o Amrik Singh is undergoing life imprisonment in case FIR No.147/2003, U/S 366/376/394/34IPC, Police Station Chankya Puri, Delhi for committing rape of a young girl forcibly.*
> *...*
> *The Police opposed his premature release in its report as well as in the meeting. The home town police not opposed his premature release. Probation Officer, Delhi has recommended his premature release. The members of the Board were not convinced for his premature release in view of nature of crime and* ***he has not yet lost his potential to commit such crime.***
> *After taking into account all the facts and circumstances of the case,* ***the Board REJECTS premature release of the convict Harpreet Singh s/o Amrik Singh.****"*

98. On 06.09.2017, in a particularly striking instance, the SRB identified the Petitioner's propensity to commit crime as **"Nil"** and noted his participation in yoga and meditation. Nevertheless, it rejected his release, citing the ***"nature of crime"*** and ***"circumstances in which crime was committed"***.

99. The Minutes read as under:

> *"HARPREET SINGH S/O SH. AMRIK SINGH - AGE-34 Yrs*
> *Sentence: Harpreet Singh s/o Amrik Singh is undergoing life imprisonment in case FIR No. 247/2003, U/S 366/376/394/34 IPC, P.S. Chankya Puri, Delhi for rape of a*

young girl and to commit robbery with her at Budha Jayanti Garden.
Sentence undergone excluding remission: 13 years, 08 monthsand23 days.
Sentence undergone including remission: 16 years, 04 months and 16 days.
Releases on Parole / Furlough: Parole 05 times and Furlough 09 times.
Propensity for committing crime: Nil
Police Report: The Delhi Police opposed his premature release in its report. However, home town police has recommended his premature release.
Probation officer's Report: The Probation Officer, Delhi has recommended his premature release as he has to take care of his family. His conduct is satisfactory in jail.
He learnt Cooking and First Aid work in jail. He also participated in Yoga, Meditation and other jail activities.
…
The members of the Board were not convinced for his premature release in view of 1) Nature of crime committed by him 2) Circumstances in which crime was committed 3) Police has opposed his premature release.
After taking into account all the facts and circumstances of the case, the Board REJECTS premature release of convict Harpreet Singh s/o Amrik Singh."

100. A consistent pattern of consistent and persistent rejection on the ground of gravity of offence, dehors the petitioner meeting all the parameters specified in Policy, 2004, is visible in the three SRB Meetings held from 2016-2017.

b) <u>The Phase of Misapplied Policy (2018–2023):</u>

101. From 2018 onwards, the SRB shifted its consideration to the Delhi Prison Rules, 2018, a Policy that was not in force at the time of the

Petitioner's conviction.

102. During this period (in **eight** Meetings dated 26.07.2018, 19.07.2019, 28.02.2020, 05.08.2020, 11.12.2020, 25.06.2021, 21.10.2021, and 30.06.2023), the SRB continued to issue what the Petitioner terms "cyclostyled" rejections.

103. This happened even while the Social Welfare Department and on occasions, the Delhi Police recommended his release, and Reports consistently showed he had availed multiple paroles and furloughs without any adverse incidents.

104. The Minutes dated 28.02.2020 read as under:

> *"Harpreet Singh S/o Sh. Amrik Singh is undergoing life imprisonment in case*
> *FIR No. 247/2003, U/S 366/376(2)(G)/394/34 IPC, P.S. Chankya Puri, Delhi for committing rape and robbing a lady at Budha Jayanti Park, Delhi.*
> *The convict has undergone: Imprisonment of 16 years, 04 months and 13 days in actual and 20 years, and 19 days with remission. He has availed Parole 06 times & Furlough 17 times.*
> ***Recommendation by Police**: The Delhi Police has strongly opposed his premature release in its report as well as in the meeting by the Special Commissioner of Delhi Police (Crime).*
> ***Hometown police report** has not been received.*
> ***Recommendation by Social Welfare Department**: The Social Welfare department, Delhi has recommended his release in its report, but the Director, Social Welfare Department, Delhi has not recommended his premature release in the meeting. Hometown has not opposed his premature release in its report.*
> *After taking into account all the facts and circumstances of the case as **the convict was a public servant working as President's Body Guard and even then, he committed gang***

rape of a lady and robbed her in a public place, perversity of crime, *the Board unanimously REJECTS premature release of Harpreet Singh S/o Sh. Amrik Singh at this stage."*

c) <u>The Final Impugned Rejection on February 23, 2024:</u>

105. Following directions from this Court to reconsider the Petitioner's case under the 2004 Policy, the SRB convened again on 23.02.2024.

106. The resulting Minutes reflect a continued reliance on retributive logic and read as under:

"Harpreet Singh S/o Sh. Amrik Singh Is undergoing life imprisonment in case FIR No. 247/2003, U/S 366/376(2)(G)/394/34 IPC, P.S. Chankya Puri, Delhi for committing rape and robbing a lady at Budha Jayanti Park, Delhi.
The convict has undergone; Imprisonment of 20 years, 03 months and 07 days in actual and 24 years, 09 months and 22 days with remission.
This case has been considered under the guidelines-order dated 16.07.2004 issued by the Govt. of NCT of Delhi i.e. policy that was existing on the date of conviction.
Conclusion: *The Board considered the reports received from Police and Social Welfare Departments and took into account all the facts and circumstances of the case under which the offence was committed i.e.* ***the convict was a public servant working as President's Body Guard and committed gang rape of a lady and robbed her in a public place, the manner/nature of the crime committed, gravity and perversity of the crime etc.***
With the given back drop of the heinous crime committed by the convict the Board noted that such desperate crime shake the confidence of society and it may not be in the interest of the society at large to release such a convict. *The Board after discussion accordingly unanimously*

> ***REJECTS*** *premature release of convict premature release of convict Harpreet Singh S/o Sh. Amrik Singh."*

107. The recurring rejections of the Petitioner, by the SRB across twelve separate Meetings (2016 -2024) provides a profound insight into a reasoning process of the SRB which demonstrates an increasingly detached approach from the reformative mandate of the law. A synthesis of the SRB's logic reveals a consistent pattern of retributive impulse, selective observation and mechanical adjudication.

108. The primary pillar of the SRB's reasoning in every rejection *is the nature and gravity of the original offense.* In its most recent Minutes dated 23.02.2024, the Board focused squarely on the fact that the Petitioner was a ***"public servant working as President's Body Guard"*** who committed rape and robbery. The SRB's reasoning treats the *"heinousness" of the past act, as a permanent and insurmountable barrier.*

109. In this regard reference may be made to Rajo, (supra), where the Apex Court held that *while the nature of the offence and its societal impact are relevant considerations for the SRB, the same cannot be the sole basis for continued incarceration.* The relevant paragraph is extracted as under:

> *"24. Apart from the other considerations (on the nature of the crime, whether it affected the society at large, the chance of its recurrence, etc.), the appropriate government should while considering* ***the potential of the convict to commit crimes in the future, whether there remains any fruitful purpose of continued incarceration, and the socio-economic conditions, review : the convict's age, state of heath, familial relationships and possibility of reintegration, extent of earned remission, and the post-conviction conduct including, but not limited to - whether***

> ***the convict has attained any educational qualification whilst in custody, volunteer services offered, job/work done, jail conduct, whether they were engaged in any socially aimed or productive activity, and the overall development as a human being***. *The Board thus should not entirely rely either on the presiding judge, or the report prepared by the police. In this court's considered view, it would also serve the ends of justice if the appropriate government had the benefit of a report contemporaneously prepared by a qualified psychologist after interacting/interviewing the convict that has applied for premature release.*
> *...*"

110. This was further reaffirmed in *Satish @ Sabbe*, (supra), wherein the Apex Court cautioned against mechanical reiteration of the gravity of the original offence. The relevant paragraph is extracted as under:

> *"17. It is no doubt trite law* ***that no convict can claim remission as a matter of right.*** *[Swamy Shraddananda (2) v. State of Karnataka, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113] However, in the present case, the circumstances are different. What had been sought and directed by this Court through repeated orders was not premature release itself, but due application of mind and a reasoned decision by executive authorities in terms of existing provisions regarding premature release. Clearly, once a law has been made by the appropriate legislature, then it is not open for the executive authorities to surreptitiously subvert its mandate.* ***Where the authorities are found to have failed to discharge their statutory obligations despite judicial directions, it would then not be inappropriate for a constitutional court while exercising its powers of judicial review to assume such task onto itself and direct compliance through a writ of mandamus.***
> *...*
> *19.* ***It would be gainsaid that length of the sentence or the***

> ***gravity of the original crime cannot 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. [Zahid Hussein v. State of W.B., (2001) 3 SCC 750 : 2001 SCC (Cri) 631] As per the State's own affidavit, the conduct of both the 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 does not 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."*

111. Had gravity/Heinousness of offence been the only criterion, then the entire foundation of Remission Policy crumbles, as it is never going to change. By leaning solely on this criterion, the SRB has miserably failed to make any assessment of the transformation of the individual, over two decades.

112. Another glaring feature of the SRB's reasoning ***is the systematic exclusion of every positive Institutional Report, from its final conclusions.***

113. In 2017, the SRB explicitly recorded that the Petitioner's propensity to commit crime was ***"Nil,"*** yet it proceeded to reject his release based on the "***nature of crime***". The Board consistently brushed aside the recommendations of the **Chief Probation Officer**, the **Social Welfare Department** and the **Prison authorities**, all of whom advocated for his release based on his "*exemplary conduct*" and lack of criminal antecedents.

The Board ignored that the **Petitioner's Hometown Police,** did not oppose his release.

114. During his period of incarceration since 2003 and sentence on 17.08.2009, 29 incident-free parole/furlough releases have been availed by him, bearing a testament that *he has successfully integrated into society*. Though in every SRB Minutes, there is a mention about the number of Paroles/Furloughs availed by him, but this factor has also been overlooked.

115. The Rejection Orders in the Petitioners are "*pithily drafted, cursorily articulated proforma paragraphs"* taking a myopic view of only the gravity of offence, overlooking all other relevant considerations. Also, the reasoning process devolved into a *"copy-paste*" exercise, with no other reason for rejection, much like the rejections in *Vijay Kumar Shukla* (supra). It clearly reflects non-application of mind in ignoring the relevant parameters provided in Policy, 2004 and dogmatic adherence to gravity of offence, which cannot be given this exalted position in the Remission Orders, especially when it is not stated to be a relevant factor.

116. The Policy itself distinguishes the offences into two categories of offences as heinous and seriously heinous offences, when it gives the distinct period of 20 years and 25 years period of incarceration respectively, for the two categories.

117. The SRB repeatedly invoked the phrase that the crime would "*shake the confidence of society"*. Such reasoning is an unfortunate short-cut and a bureaucratic lethargy that fails to explain *how* the release of a reformed individual after 25 years of incarceration, would undermine social order especially in the light of number of Parole/Furloughs availed by him and a favourable Report by all the agencies.

118. The Board's reasoning also reveals its persistent ambiguity with the correct legal framework, to be applied. From 2018 - 2023, the Board applied the **DPR, 2018**, instead of the **2004 Policy** prevailing at the time of conviction, until directed otherwise by this Court.

119. Even after this Court specifically directed the SRB to consider the ***"relevant factors"*** of the 2004 Policy (such as family socio-economic status and loss of criminal potential), the ***Board's, 2024 rejection remained identical in spirit to its previous ones, focusing solely on gravity.***

120. The SRB's reasoning is not an assessment of a human being, but a re-assessment of the original trial. It represents a typecasting of the convict based on a 22-year-old FIR, while totally devaluing the State's own assessment of his successful reformation. Such a logic, which ignores 25 years of "sterling conduct" in favour of historical retribution, constitutes a patent non-application of the Reformative policy, which it is duty-bound to uphold.

121. Insisting on continued punishment without considering the *"transformation of a prisoner*," undermines the very rationality of the criminal justice system.

122. Whether it is the 2004 Policy's 25-year cap or the DPR 2018 procedural safeguards, the prevailing wisdom dictates that this Court must ensure the Petitioner is judged by the most humane and reformative standards available.

V. ***Whether the petitioner Satisfies the Parameters of Policy, 2004:***

123. The determination of whether a life convict is fit for premature release cannot be a subjective or impressionistic exercise. As elucidated by the

Apex Court in *Rajo*, (supra), *Zahed Husain*, (supra) the SRB is mandated to undertake a *holistic, multi-layered assessment anchored in objective material.* The Courts have identified several categories of factors that constitute the touchstone for remission.

a) The Laxman Naskar Five-Point Framework:

124. In the penological view, a *convict's conduct* after being sentenced is the most tangible evidence of their transformation. The true reformation requires the acquisition of skills that enable a law-abiding life post-release. This post-conviction conduct functions as a metaphorical *"Report Card,"* allowing the State to evaluate whether the punitive period has achieved its corrective goal

125. The evaluation of a remission, mandates a humanitarian look at the convict's roots It is governed by five factors articulated by the Apex Court in *Laxman Naskar v. Union of India*, (2000) 2 SCC 595, which are:

(i) *Whether the offense is an individual act of crime without affecting society at large;*

(ii) *Whether there is any chance of future recurrence and whether the convict has lost potentiality for committing crime;*

(iii) *Whether there is any fruitful purpose of confining this convict anymore;*

(iv) *Whether there is any fruitful purpose of confining this convict anymore; and*

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

126. This framework serves as a mandatory checklist to ensure that the

State's discretion is exercised on objective, rational grounds rather than subjective or purely retributive ones. In the case of the Petitioner, an application of these five points reveals a significant disconnect between the Petitioner's actual record and the SRB's repeated rejections.

a. Whether the offense is an individual act of crime without affecting society at large:

127. While the Petitioner was convicted of the gang rape and robbery of a woman in a public park - an undeniably grave and heinous act - it remains, in the eyes of the law, an individual act of crime.

128. As held in *Satish @ Sabbe*, (supra) the "*gravity of the original crime"* cannot be the sole basis for refusing premature release, as it would effectively convert every life sentence into a permanent, non-remittable punishment, thereby subverting the reformative intent of the law.

129. The Petitioner's crime, while shocking the conscience of the society, does not belong to the category of mass terrorist acts or systemic societal disruptions that might justify a permanent exclusion from even the hope of redemption.

b. Whether there is any chance of future recurrence and whether the convict has lost potentiality for committing crime.

130. These two factors are the core of the reformative inquiry. In the case of the Petitioner, the evidence of ***lost potentiality*** is empirical and overwhelming.

(i) Social Investigation Report - no punishments was awarded during his entire period of incarceration, a rarity for long-term lifers. It notes his ***strong desire to look after his family*** and lead

a meaningful life.

The *Delhi Chief Probation Officer* formally recommended his release, noting that his conduct in jail remained ***satisfactory*** and that he has significant familial responsibilities toward his aged parents and minor children. He is the breadwinner for a family in Punjab, including **aged parents, his wife, and two minor children**.

(ii) State Welfare Officers Report: The Department analyzed his conduct and concluded that ***he is not a habitual offender*** and has spent his time in prison ***adhering strictly to disciplinary norms***. The *Delhi Chief Probation Officer* formally recommended his release, noting that his ***conduct in jail remained satisfactory*** and that he has significant familial responsibilities toward his aged parents and minor children.

(iii) In the **Hometown Report as well**, there is ***no opposition to his release***.

(iv) The Report of **Jail Superintendent** reflects that on 26.02.2013, the **J**ail Superintendent placed the Petitioner on the commendation roll, citing his *outstanding dedication and devotion* to maintenance work. He was awarded formal Certificates for *good conduct and hard work* on 26.01.2014 and 15.08.2015. There is **recognition of his *excellent performance*** as a canteen *sahayak* (assistant) noteworthy diligence, demonstrating a sense of responsibility and institutional trust.

He successfully completed training in cooking and first aid. His participation in vocational, yoga, and meditation courses demonstrate a behavioural shift that is counter-intuitive to any remaining criminal

potential.

The Petitioner has been released on parole and furlough on **29 separate occasions**. He never jumped parole, never surrendered late, and maintained an unblemished record during every period of temporary freedom.

(v) The "Nil" Propensity Report: In the SRB meeting dated 06.09.2017, the Board itself identified the Petitioner's propensity to commit crime as **"Nil"**.

131. It is evident from the aforesaid reports, that every report in his favour, indicating his reformation and suitability to integrate in the Society.

c. Whether there is any fruitful purpose of confining this convict any more:

132. The primary objectives of punishment are reformative and preventive. The Petitioner has spent over **21 years in actual incarceration** and **25 years and 7 months including remission**. During this time, he earned multiple Certificates of recognition for his "*good conduct, hard work, and excellent services".*

133. Continued incarceration after 25 years of documented reform, serves no preventive purpose; instead turns the punishment into a purely retributive exercise - what the Supreme Court terms "*savage justice*" - which crushes the life force of the individual without further benefit to society.

134. For the Petitioner, this Report Card spans over two decades of institutional discipline, vocational growth, and successful community re-entry tests. A prisoner's active contribution to the prison ecosystem is a primary indicator of a shift in their behavioural pattern. The Petitioner's

record reflects a consistent history of being an asset to the prison administration.

135. The factors such commendations, vocational growth, and clean parole records are the "structured" indicators of reformation.

136. Petitioner's Report reflects that he has transitioned from being a prisoner to a reformed individual. To continue to judge him solely by his 2003 offense while ignoring this unblemished 21-year resume of transformation, is to reject the very possibility of human change that the reformative theory of punishment is built upon.

137. The SRB's repeated rejections, which focus solely on the "gravity" of the 2003 offense, represent a failure to engage with the five parameters laid down in the *Laxman Naskar* case. By ignoring the "Nil" propensity report, the 29 clean parole releases, and the 25 years of served time, the SRB has subverted the very legal architecture it was designed to implement.

138. The Reports and the Record of the Petitioner, as detailed above, leads to only one conclusion that he stands totally reformed and is entitled to re-integration is the Society.

VI. Scope of Judicial Review in Remission:

139. As this Court stands at the crossroads of deciding the Petitioner's fate, it must confront a significant procedural and jurisdictional question: *should this Court, **upon finding the SRB's rejection to be arbitrary**, grant remission or must it remand the matter for the thirteenth time to the same administrative body?*

a) Reviewing the "Manner" of Decision-Making:

140. The threshold objection raised by the State that the decision to grant Remission is the exclusive discretion of the SRB and cannot be granted in exercise of judicial review, needs to be addressed.

141. The question of whether this Court can scrutinize the sovereign or executive power of remission in judicial review, is no longer *res integra*. In the modern Constitutional framework, the exercise of this power is bound by principles of constitutionalism and in given circumstances, the Executive Orders *are subject to judicial review*.

142. The foundational principles of judicial review were established in the landmark *Wednesbury Case*; *Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, [1947] 2 All ER 680. The Court explained as under:

> *"It is true that discretion must be exercised reasonably a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters, which he is bound to consider. He must exclude from his consideration matters, which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, there may be something so absurd that no sensible person could even dream that it lay within the powers of the authority... In another, it is taking into consideration extraneous matters. It is unreasonable that it might almost be described as being done in bad faith; and in fact, all these things run into one another."*

143. The Court clarified that while an authority possesses discretion, it must direct itself properly in law, consider all relevant matters, and exclude extraneous factors. A decision is "*unreasonable,"* if it is so absurd that no sensible person could dream that it lay within the power of the authority, or

if it is tainted by bad faith.

144. These grounds were further distilled in *Council of Civil Service Unions v. Minister for the Civil Service*, [1984] 3 All ER 935 into three distinct heads: *illegality, procedural impropriety, and irrationality.*

145. In *Tata Cellular v. Union of India*, (1994) 6 SCC 651, the Apex Court cautioned that Courts do not sit in appeal to correct administrative decisions or substitute their own expertise. The interference **is warranted only where the order is vitiated by arbitrariness, bias, or *mala fides*.**

146. This proposition was echoed in *Monarch Infrastructure (P) Ltd. v. Commissioner, Ulhasnagar Municipal Corporation*, AIR 2000 SC 2272 and *DDA v. M/s UEE Electricals Engg. Pvt. Ltd.*, (2004) 11 SCC 213, which emphasizes that judicial intervention is reserved for instances where the decision-making process is fundamentally unfair or lacks a nexus with the intended objective. The Court in *Monarch Infrastructure*, (supra) held as under:

> *"Broadly stated, the Courts would not interfere with the matter of administrative action or changes made therein,* ***unless the Government's action is arbitrary or discriminatory or the policy adopted has no nexus with the object it seeks to achieve or is mala fide.****"*

147. Specific to the power of remission, the Apex Court in *State of Haryana v. Mohinder Singh*, (2000) 3 SCC 394 and *Sangeet v. State of Haryana*, (2013) 2 SCC 452 held that the exercise of such power, cannot be arbitrary. It must be informed, reasonable, and fair.

148. As recognized in *Gohil Hanubhai v. State of Gujarat*, (2017) 13 SCC 621 and further articulated by Rohinton F. Nariman J. in *Utkal Suppliers v.*

Maa Kanak Durga Enterprises, (2021) 14 SCC 612, judicial review is directed at the ***manner*** in which a decision is made, not the decision itself. While administrative bodies like the SRB must have ***fair play in the joints***, their actions must still withstand the ***test of reasonableness***.

149. Furthermore, *Shalini Soni v. Union of India*, AIR 1981 SC 431 reminds one that the purpose of this review is to ***ensure fair treatment***; the Court's function is to determine whether the conclusion is based on the evidence on record or constitutes a ***mechanical exercise,*** devoid of reasoning.

150. In the context of the present case, it is evident that the SRB failed to follow the fair process, consider relevant material and arrive at a conclusion that a reasonable body could reach. The SRB by ignoring its own Policy and not applying the necessary multi-factor test, has violated the fundamental ***manner of decision-making***, necessitating judicial correction.

b) The Whirlpool Principle: Extent of judicial Intervention:

151. As already emphasized, *the next significant question is the extent of interference by this Court, in Executive decisions.* The answer to this question lies in the parameters defined by the Apex Court in *Whirlpool Corpn. v. Registrar of Trade Marks*, (1998) 8 SCC 1 is pivotal to overcoming the State's common objection regarding the maintainability of a Writ petition when an alternative administrative remedy exists. The Supreme Court clarified that the existence of an alternative remedy (such as an administrative appeal or a fresh application), does not act as an absolute bar to the jurisdiction of the High Court under Article 226 of the Constitution. The Court identified four specific contingencies where a Writ

Petition is maintainable, *despite the availability of an alternative forum:*

I. *Where the writ petition has been filed for the enforcement of any of the* ***Fundamental Rights;***
II. *Where there has been a* ***violation of the principle of natural justice;***
III. *Where the order or proceedings are* ***wholly without jurisdiction; or***
IV. *Where the* ***vires of an Act*** *is challenged.*

152. Therefore, though Judicial Review must be exercised judiciously and only in appropriate cases, but the Courts are not prohibited from interfering when the issues involve the aforesaid four circumstances.

153. In the present case, as has already been highlighted the Orders have been made in a *stereotypical copy-paste manner*, with no consideration of the requisite facts as have been detailed in Rule 1256 and 1257 of Delhi Prison Rules and also in Policy, 2004. Furthermore, the Orders of SRB cannot be termed as Speaking Order considering that the various parameters as highlighted in the Policy 2004, Delhi Prison Rules, 2018 and the Judgment of the Apex Court and Co-ordinate Benches of this Court, have been ignored and overlooked with impunity. The only factor which has been considered is the *gravity of offence* and all relevant factors which are in favour of the Petitioner, have been conveniently overlooked.

154. The Petitioner's case fits squarely into at least two of the *Whirlpool* exceptions of there being violation *of the Fundamental Rights* and the decision of the Executive Authority *being in violation of Principles of Natural Justice*, rendering the alternative remedy of applying again to the SRB not only unnecessary, but legally inadequate.

155. The requirement for a "***speaking order***" is the third pillar of natural justice. The Apex Court, in *Siemens Engineering & Manufacturing Co. of India Ltd. v. Union of India*, (1976) 2 SCC 981, has observed that in order to ensure transparency in administrative/quasi-judicial actions, every such order must be supported by proper reasons.

156. The Co-ordinate Bench of this Court, in *Vijay Kumar Shukla*, (supra) while emphasizing the need for the SRB to pass a reasoned order, has observed as under:

> ***36. Latin maxim Nemo debet esse judex in propria causa (no one should be a judge in their own cause) and Audi alteram partem (hear the other side) are foundational principles of natural justice. A "speaking order" or "reasoned order" is regarded as the third pillar of natural justice. An order is termed "reasoned" when it contains the rationale supporting it.*** *The adjudicating body's duty to provide reasons ensures that such a decision qualifies as a* ***"reasoned order****". The Supreme Court has consistently held that a "speaking order" must clearly state the grounds on which it is based. In Siemens Engineering & Manufacturing Co. of India Ltd. v. Union of India (1976) 2 SCC 981, the Supreme Court underscored that providing reasons for an order is not merely a formality but a fundamental principle of natural justice, ensuring that quasi-judicial bodies demonstrate transparency and fairness in their decision-making process….*

157. Another Co-ordinate bench of this Court in *Santosh Kumar Singh*, (supra), has observed as under:

> *"****54.*** *In view of the above discussion, it is clear that* ***the requirement to record clear reasons in decisions on premature release is a procedural safeguard which must be strictly adhered to.*** *Since such decisions directly affect the personal*

liberty of a convict, they must reflect proper application of mind, show that relevant factors have been duly considered, and disclose the basis for the conclusion reached. The SRB, while performing its functions must ensure that its decisions are reasoned and not arbitrary. The reasoning must be sufficient to allow the convict to understand the basis of the decision and, where necessary, seek appropriate legal remedies."

158. An order is truly "reasoned" only when it contains the rationale supporting the conclusion, ensuring transparency and fairness in the decision-making process of quasi-judicial bodies like the SRB.

159. Since the SRB has consistently issued "*cyclostyled*" and "*mechanical*" rejections over 12 Meetings, failing to address the Petitioner's reformative evidence or the "Nil" Propensity Report, **the decision-making process is fundamentally flawed.**

160. Therefore, from the perusal of the above judicial precedents, it is evident that the SRB is under an obligation, in view of the principles of natural justice, to pass a reasoned order so as to demonstrate that due application of mind has been made; failure to do so would vitiate the order as being arbitrary and unsustainable in law.

161. The emphasis on reasonableness and the *Whirlpool* doctrine's protection of fundamental rights, together creates a robust mandate for this Court. Where the SRB's manner of rejection is found to be a mechanical exercise, the Court must step in to restore the balance.

162. The Petitioner has undergone **21 years of actual incarceration** and **over 25 years including remission**. His continued detention, despite fulfilling all reformative criteria and surpassing the 25-year outer limit of the 2004 Policy, directly impacts his **Right to Life and Personal Liberty** under

Article 21. In such circumstances, where the State's action threatens the fundamental guarantee of liberty, the *Whirlpool* doctrine mandates that the High Court exercise its extraordinary jurisdiction, to vindicate the rule of law.

163. This aspect finds validation from the judgement of Apex Court in *Bilkis Yakub Rasool v. Union of India*, (2023) 10 SCC 494, wherein while relying on *Swamy Shraddananda v. State of Karnataka*, (2008) 13 SCC 767 it was highlighted that such decisions must not be taken mechanically or in abstraction, but through objective assessment of all facts, including the likely impact on the family of victims and the social fabric, and the precedent it may set for the future. The Apex Court observed:

> *"179. Further, in Swamy Shraddananda (supra), it was observed that judicial notice has to be taken of the fact that remission, if allowed to life convicts in a mechanical manner without any sociological or psychiatric appraisal of the convict and without any proper assessment as to the effect of early release of a particular convict on the society. It was further observed that, 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****. Therefore, one cannot draw the guidelines for regulating exercise of power.* ***Further, the exercise or non-exercise of power of pardon or remission is subject to judicial review and a pardon obtained by fraud or granted by mistake or granted for improper reasons would invite judicial review and the vindication of the rule of law being the main object of judicial review, the mechanism for giving effect to that justification varies. Thus, rule of law should be the***

overarching conditional justification for judicial review."

164. In this regard, the judgments of the Co-ordinate Benches of this Court in *Sushil Sharma*, (supra), *Vijay Kumar Shukla*, (supra), and *Santosh Kumar Singh*, (supra) would be relevant. In these cases, as well, the Court was faced with the same question whether to grant remission or to remand the case back to SRB for reconsideration, as the incarceration period had become "disproportionate" and the SRB's repeated failures indicate a systemic bias that no amount of "remanding" can cure. The **Courts exercised the discretion in favor of grant of Remission, rather than referring the matter back to SRB.**

165. In contrast, another line of reasoning reflected in *Santosh Kumar Singh*, (supra) advocates for institutional remand even in the face of flawed SRB decisions, **provided the prisoner has not yet crossed the outer limit of incarceration.** This approach emphasizes correcting procedural deficiencies through a structured, reasoned re-evaluation by the SRB, respecting the executive's primary role in granting remission while ensuring it adheres to objective standards.

166. This approach respects the separation of powers, maintaining that the primary *discretion* to remit belongs to the Executive, provided that discretion is exercised within the bounds of a *reasoned and objective* framework.

167. The divergence between these decisions, is not one of principle but of degree and stage.

168. Once a convict has surpassed the policy-prescribed maximum sentence, endured numerous unjustified rejections, and established an

impeccable record of rehabilitation, the balance shifts decisively. At this point of no return, judicial intervention through direct release is not only permissible, but necessary to uphold constitutional conscience and prevent systemic injustice.

169. The jurisprudence emerging from these judgments recognizes that when a prisoner has served the maximum period of incarceration contemplated under state policy, such as 25 or 29 years, and continues to face repeated, arbitrary, or unreasoned rejections by the SRB, the High Court may directly intervene under Article 226 to prevent a *"failure of justice."* In such circumstances, where the SRB's decisions lack legal justification and the prisoner has demonstrated sustained good conduct and reform over decades, including multiple successful parole periods, remanding the matter back to the SRB would be futile, as held in *Bilkis Yakub Rasool (supra)*. The incarceration, having become disproportionate and devoid of penological purpose, triggers the Court's duty to protect the prisoner's fundamental right to liberty under Article 21, warranting immediate release.

VII. Application to the Petitioner's Rejection Orders:

170. The 2004 Policy, which governs the Petitioner's case, explicitly envisions a clinical assessment of the individual's *current* state. The SRB's Orders are bereft of any meaningful application of the parameters; the 2004 Policy stipulates that even for heinous crimes; the period of incarceration (including remission) should ordinarily not exceed 25 years. The Petitioner has served more than 25 years and 7 months (including remissions).

171. A perusal of Petitioner's rejection Orders, particularly the most recent

Minutes dated **23.02.2024**, reveals a stark departure from these standards. The SRB's conclusion rests solely on the *heinous crime*, *gravity*, and *perversity* of the original 2003 offence, failing to mention the 25 years of satisfactory jail conduct or the *Nil* propensity reports. In many instances, the SRB uses open-ended terms like "etcetera," which this Court has characterized as dispositive of non-application of mind and an unfortunate short-cut, that is completely opaque.

172. The **"futility" of the alternative remedy, as emphasized in the case of *Whirlpool*, (supra) is writ large on the face of the decisions.** In its **12 rejections** based on the same static ground i.e. the gravity of the original offense committed in 2003, the SRB has demonstrated a bureaucratic haze that is unlikely to be cured by a 13th Application. As this Court has repeatedly emphasized, the gravity of an offense is a static, historical fact - it will never change, no matter how many decades pass. To allow the heinousness of a past act to act as a permanent bar to remission is to transform a life sentence into a retributive death by incarceration, rendering the State's reformative machinery entirely redundant.

173. To continue his incarceration beyond this limit without a specific, evidence-based finding of *current* dangerousness, is a direct subversion of the Policy's own logic. Driving the Petitioner back to the same body that has repeatedly failed to apply the governing Policy, **would be an exercise in futility**. Once it has been concluded that the Petitioner has met all the Parameters for remission, the only decision to follow is grant of Remission, for which it would not be in the interest of justice, to refer back the matter to SRB.

Epiloque:

> ***"As Gregor Samsa awoke one morning from uneasy dreams he found himself transformed in his bed into a gigantic insect."***
>
> ***- Franz Kafka***

174. In the final analysis, the journey of the Petitioner's incarceration warrants a return to the imagery of Franz Kafka as quoted above.

175. Much like *Gregor Samsa*, the Petitioner, has been trapped by the State in the frozen image of his past criminality - viewed perpetually as the *gigantic insect* of 2003, rather than the reformed individual of 2025. The SRB, by mechanically reiterating the *heinousness* of the original offence, as a constant and permanent bar to release, has refused to acknowledge that the Petitioner has successfully undergone a reverse metamorphosis: shedding the propensity for crime and earning his place back in humanity, through 25 years of exemplary conduct and discipline.

176. **The Petitioner's journey**, from a being a public servant who fell into crime to a prisoner who earned 21 years of clean conduct and multiple commendations - demonstrates that the **reformative objective** of his sentence has been fulfilled.

177. While Kafka's protagonist was ultimately destroyed by the alienation of those who could not see past his shell, the Constitution of India, anchored in the Reformative Theory, forbids the State from condemning a prisoner to such eternal alienation, when the objective of correction has been achieved.

178. To allow the 'uneasy dreams' of a decades-old crime, to eclipse the verified reality of the Petitioner's *Nil* propensity for future violence, would be to reduce the justice system to a retributive cage.

Relief:

179. In view of the aforesaid discussion, this Court concludes that the impugned Minutes of the SRB dated 23.02.2024 and there subsequent approval by the Ld. Lieutenant Governor, are **arbitrary, irrational, and contrary to the record**.

180. Accordingly, the Writ Petition is **allowed**.

181. This Court directs that the **Petitioner/Harpreet Singh**, **be released from custody forthwith**.

182. A copy of this Order is to be sent to the Jail Superintendent for immediate information and compliance.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 30, 2026
mb