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

% *Judgment reserved on: 17.05.2025*
Judgment pronounced on: 11.06.2025

\+ **W.P.(CRL) 3429/2024 & CRL.M.A. 1394/2025**

VIKRAM YADAV .....Petitioner

Through: Ms. Arundhati Katju, Sr. Advocate with Mr. Ali Chaudhary, Ms. Shristi Borthakur and Mr. Abuzar Ali, Advocates

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Sanjeev Bhandari, ASC for State with Mr. Sushant Bali, Ms. Avita Bhandari, Mr. Arjit Sharma and Mr. Nikunj Bindal, Advocates with Inspector Shrichand and SI Anil, PS Seemapuri

CORAM:
HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T

GIRISH KATHPALIA, J.:

Kautilya's Arthshastra makes references to the element of reformatory policy of sentencing that later came to be known as "remission". Release of convicted prisoners on sympathetic grounds before completion of the term of imprisonment imposed on them was significant part of the ancient Hindu jurisprudence. Kautilya advocated for periodic exercise of premature

release of prisoners, who were young or very old or ailing and those who maintained good conduct in prison. The Vth pillar edict of Delhi Topra makes reference to a statement of the emperor Asoka that he had let off prisoners 25 times during a span of 26 years. The Ist separate edict at Dhauli refers to an address by king Asoka to his judicial officers in the capital, calling them upon to ensure that not a single innocent is subjected to unnecessary pain or imprisonment. There existed a conscious and consistent thought amongst ancient thinkers, aimed at reformation of criminals in order to achieve larger goal of peace in society by minimization of crime and criminogenic tendencies. Later, thinkers across globe nurtured the idea that reformatory policies are more productive than deterrent and retributory approach to crime and criminal. To paraphrase and quote the famous Irish author and poet Oscar Wilde: "Every saint has a past and every sinner has a future". And thoughts of Fyodor Dostoevsky (Crime and Punishment): "Guilt, conscience, and the possibility of moral rebirth reside in every human being". Every darkness carries a hope for light, and every light holds a memory of darkness. The track connecting this duality of darkness and light is the course track of reformative sentencing. Every wrong deserves a consequence; but every consequence must have a limit, lest it became wrong in itself. The present decision is rooted in this philosophy.

1. The petitioner, having suffered incarceration for more than 18 years without remission and more than 21 years with remission, consequent upon his conviction in cases FIR No.611/2001 and FIR No.261/2001 of PS Badarpur and PS Seemapuri respectively for offences under Sections 302/120B/364A/384/186/353/307/419 IPC, for which he was awarded imprisonment for life (*and different terms, which were to run concurrently*) by the Trial Court and upheld by a Division Bench of this court, seeks premature release. Upon service of notice, the respondent State entered

appearance through learned Additional Standing Counsel (ASC), who filed multiple status reports at different stages of arguments before predecessor benches. On behalf of petitioner also, written submissions and documents at different stages were filed. With consent of both sides, I heard learned Senior Counsel for petitioner and learned ASC for State in special hearing organised for a few cases on a Saturday.

2. The petitioner has sought a writ of *mandamus* directing his premature release from prison on the basis of policy framed by the Government of NCT of Delhi in the year 2004, as he has already undergone prison sentence for a period more than 18 years without remission and more than 21 years with remission. Earlier, the Sentence Review Board (SRB) took up petitioner's case for premature release on multiple occasions and rejected the same on 06.08.2020, 11.12.2020, 25.06.2021, 21.10.2021 and 30.06.2023. Thereafter, the petitioner along with others challenged the decision dated 30.06.2023 of SRB through a writ petition bearing no. W.P.(CRL) 1268/2024 before this court, and this court held that case of the petitioner has to be governed by the policy of 2004 so the respondent State was directed to consider case of the petitioners of that writ petition (*which included the present petitioner*) afresh *qua* their premature release. Feeling aggrieved by the said order of this court, the petitioner filed Special Leave Petition, bearing SLP (Criminal) No.6839/2024, which was disposed of as withdrawn granting liberty to the petitioner to file appropriate proceedings before this court. Hence, the present petition.

3. The petitioner specifically disclosed in the petition that during the period of incarceration, vide order dated 21.09.2010 in W.P.(CRL) 919/2010, he was granted one month parole from 27.10.2010 to 27.11.2010 by this court, but instead of surrendering on 28.11.2010, he absconded and on 05.06.2015, he was re-arrested in connection with two new cases, though later, on 12.10.2018 in those two new cases, he was acquitted. Thereafter, successive applications of petitioner for premature release were rejected on the dates mentioned above. In his petition, the petitioner has extracted the Minutes of Meetings of SRB whereby his successive applications for premature release were rejected, basically on the ground of gravity and perversity of crime and jumping of parole followed by re-arrest in two new criminal cases. However, thereafter, by way of successive orders of this court in different writ petitions, the petitioner was released on furlough and he duly surrendered after expiry of the release period. Lastly, the petitioner surrendered on 01.10.2024 in compliance with order dated 01.10.2024 of the Supreme Court passed in his SLP (Criminal) No.6839/2024. Since then, the petitioner remains confined in jail.

4. In their multiple status reports filed at different stages before different predecessor benches and ultimately before this bench, the respondent State opposed premature release of the petitioner, extracting the Minutes of Meetings of the SRB, whereby his requests for premature release were rejected. Referring to the said status reports, the learned ASC justified the rejection of premature release of petitioner largely on the ground of conduct of the petitioner in jumping parole, whereafter he was re-arrested after five

years in two new cases. In the latest status report, learned ASC also referred extensively to the judicial precedents, which were cited again during arguments, basically to contend limited scope of interference by the High Court in such matters.

5. Learned Senior Counsel for petitioner took me through records, contending that this is a fit case to exercise writ powers and direct premature release of petitioner. Taking me through the minutes of different meetings of the SRB (*as extracted in the petition itself*), learned Senior Counsel contended that there was complete non-application of mind by the SRB insofar as all those minutes of meetings are copy-paste repetitions, ignoring the current developments. It was argued by learned Senior Counsel that one single default of jumping parole in the year 2010 ought not to be considered now after 15 years in order to deny liberty to the petitioner. Learned Senior Counsel for petitioner also took me through a number of Commendation Certificates issued by jail and other authorities to the petitioner and contended that the same reflect gradual reformation of the petitioner across past 10 years. It was also argued on behalf of petitioner that his case was not considered according to the parameters laid down in the policy of 2004 despite judgment dated 25.04.2024 of a coordinate bench of this court in the case of ***Bijender & Ors. vs State***, W.P.(CRL) 1268/2024, whereby the earlier decision of SRB dated 30.06.2023 on the basis of the previous Social Investigation Report was set aside.

6. On the other hand, learned ASC supported the impugned decision of the SRB and laid heavy emphasis on the nature of the offence for which the petitioner is facing life imprisonment. As regards the Commendation Certificates, learned ASC argued that the same only make the prisoner eligible for consideration and cannot be a ground to grant premature release. Further, learned ASC also referred to the Nominal Rolls of the petitioner, pointing out that even while facing the life imprisonment, the petitioner got involved in offences under Section 307 IPC and under the Arms Act when he was on parole. Learned ASC also addressed on the limited scope of interference by this court under Article 226 of the Constitution of India in order to analyze decision of SRB, which is a technical committee. Learned ASC submitted that in case this court finds the impugned decisions of SRB not sustainable, the matter may be remanded for reconsideration in the next meeting of SRB.

7. In support of their respective arguments, both sides referred to certain judicial precedents.

7.1 Learned Senior Counsel for petitioner in support of her arguments referred to the judgments in the cases titled as ***Vijay Kumar Shukla vs State NCT of Delhi and Anr.***, 2024 SCC OnLine Del 7805; ***Gurvinder Singh vs State (Govt. of NCT) of Delhi and Anr.***, 2024 SCC OnLine Del 4721; ***Hari Singh vs State of NCT of Delhi and Ors.***, 2023 SCC OnLine Del 7118; ***Sushil Sharma vs State,*** 2018 SCC OnLine Del 13277; ***State of Haryana and Ors. vs Jagdish,*** (2010) 4 SCC 216; ***Joseph vs State of Kerala and***

Ors., 2023 SCC OnLine SC 1211; ***Bijender and Ors. vs State of Govt. of NCT of Delhi***, 2024 SCC OnLine Del 3296; and ***Laxman Naskar vs Union of India,*** (2000) 2 SCC 595.

7.2 On the other hand, learned ASC for State in support of his arguments referred to the judgments in the cases titled as ***Vijay Kumar Shukla vs State NCT of Delhi and Anr.***, 2024 SCC OnLine Del 7805; ***Gurvinder Singh vs State (Govt. of NCT) of Delhi and Anr.***, 2024 SCC OnLine Del 4721; ***Hari Singh vs State of NCT of Delhi and Ors.***, 2023 SCC OnLine Del 7118***; Ram Chander vs State of Chhattisgarh and Anr.***, (2022) 12 SCC 52; ***Laxman Naskar (Life Convict) vs State of W.B. and Anr.***, (2000) 7 SCC 626; ***Shashi Shekhar @ Neeraj vs State of the NCT of Delhi & Ors***, 2016 SCC OnLine Del 6284; ***Union of India vs V. Sriharan alias Murugan & Ors.,*** (2016) 7 SCC 1; and ***Bilkis Yakub Rasool vs Union of India,*** 2024 SCC OnLine SC 25.

7.3 Thence, the judgments in the cases titled as ***Vijay Kumar Shukla*** (supra); ***Gurvinder Singh*** (supra) and ***Hari Singh*** (supra) were referred to by both sides.

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

> "*29.* ***Each time the SRB rejects the plea, in a pithily drafted, cursorily articulated proforma paragraph, not only is each of the rejections almost a copy-paste of an earlier rejection, but it lacks any embellishment or modicum of assessment or reasoning beyond the proforma factors on which SRB has***

right to reject. What is, therefore, before this Court are a set of previous rejections and the impugned rejection of 2023 parroting the same reasons.

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

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

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

33. These aspects form part of a comprehensive note prepared by the Superintendent of Prisons as per Rule 1256(ii) (extracted in paragraph 17 above), recommendation by Deputy Commissioner of Police. Superintendent of Police, as per Rule 1256(iv); report of Chief Probation Officer as per Rule 1256(v). On the basis of these three reports, the Inspector General (Prisons) is to make his recommendation. All this is finally funnelled to the SRB, which has to apply guidelines,

general or special, laid down by the Government or by the Courts. A cautionary note has been ensconced in Rule 1257(c) for the SRB to not decline premature release 'merely on the ground that the police have not recommended this release", as also not rejecting it merely because it has been rejected on one or more occasions earlier. The decision of the SRB is mandated to be through 'speaking order in writing'.

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

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

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

45. As rightly pointed out, ***"propensity for crime" cannot be a random subjective assessment but has to be based on objective factors. The objective factors are quite well ensconced in the eligibility conditions, of a convict being in a semi-open prison and even more stringent requirements to qualify for an open prison. If those factors are met in this case, the committing to a semi-open/open prison is done, and***

the 'report card' of the convict continues to be good, in the opinion of the Court would be supremely critical factors that ought to imbue any assessment for premature release."

(emphasis supplied)

7.5 In the case of ***Gurvinder Singh*** (supra), relied upon by both sides, this court held thus:

> *"9. A perusal of the impugned order shows that the SRB while rejecting the premature release of the petitioner has only considered- (i) the facts and circumstances under which the crime was committed, (ii) the gravity, perversity and nature of the crime, (iii) unsatisfactory jail conduct, and (iv) the fact that the police opposed the premature release. However, it is noted that the SRB has to consider other relevant factors as enumerated in Para 3.1 of the policy dated 16.07.2004 and Rule 1251 of the Delhi Prison Rules, 2018 apart from considering the circumstances in which the crime was committed, as well as, the gravity, perversity and nature of crime.*
>
> *xxxx*
>
> *11. Likewise, Rule 1251 of Delhi Prison Rules reads thus:*
>
> > *1251. Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr. P.C. shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to recommend to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:—*
> >
> > *a) Whether the convict has lost his potential for committing crime considering his overall conduct in Jail during the 14 year incarceration.*
> >
> > *b) The possibility of reclaiming the convict as a useful member of the society and*
> >
> > *c) Socio-Economic condition of the Convict's*

family.

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

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

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

(i) whether the offence affects the society at large;

(ii) the probability of the crime being repeated;

(iii) the potential of the convict to commit crimes in future;

(iv) if any fruitful purpose is being served by keeping the convict in prison; and

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

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

incarceration which will result in defeating the said purpose."
(emphasis supplied)

7.7 In the case of ***Laxman Naskar*** (supra) the Supreme Court held thus:

> *"3. It is a settled position of law that life sentence is nothing less than lifelong imprisonment and by earning remissions a life convict does not acquire a right to be released prematurely; but if the Government has framed any rule or made a scheme for early release of such convicts then those rules or schemes will have to be treated as guidelines for exercising its power under Article 161 of the Constitution and if according to the government policy/instructions in force at the relevant time the life convict has already undergone the sentence for the period mentioned in the policy/instructions, then the only right which a life convict can be said to have acquired is the right to have his case put up by the prison authorities in time before the authorities concerned for considering exercise of power under Article 161 of the Constitution. When an authority is called upon to exercise its powers under Article 161 of the Constitution that will have to be done consistently with the legal position and the government policy/instructions prevalent at that time.*"

8. Falling back to the present case, there is no dispute that as elaborately laid down by the coordinate bench of this court in the judgment of ***Bijender*** (supra) guided by the judicial precedents as cited above, case of the present petitioner for premature release has to be considered in accordance with the policy of 2004. According to petitioner, the SRB did not adhere to the said policy, while according to the respondent, the policy was strictly adhered to.

9. For the sake of convenience, the relevant portion of the policy of 2004 is extracted below:

> *"Eligibility for premature release:-*
> *3.1 Every convicted prisoner whether male or female undergoing*

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

a) Whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 years incarceration;

b) The possibility of reclaiming the convict as a useful member of the society; and

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

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

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

a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.

b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.

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

3.2 All other convicted male prisoners not covered by section 433A CrPC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e., without remissions.
3.3 The female prisoners not covered by section 433A CrPC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e., without remissions.
3.4 Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution of India"

10. The relevant portion of the Minutes of Meeting dated 30.06.2023 of SRB, which led to the present petition are extracted below:

"138. VIKRAM YADAV S/o SH. INDER SINGH — AGE-42 YRS.

Vikram Yadav S/o Sh. Inder Singh is undergoing life imprisonment in case FIR No.611/2001 & 261/2001 U/S 302/120-B/364-A/384/186/353/307/419 IPC, P.S. Badarpur & Seema Puri (clubbed together) for murder of a person during abduction for ransom.

The convict has undergone:

Imprisonment of 16 years, 07 months and 03 days in actual and 19 years, 03 months and 15 days with remission. He has availed Parole 02 times. He Jumped parole w.e.f. 28.11.2010 and was re-arrested in other 02 cases on 05.06.2015.

Conclusion:

Reports received from Police and Social Welfare Departments for premature release of convict and after taking into account all the facts and circumstances of the case i.e. murder of a person after abduction for ransom, the gravity and perversity of the crime, jumping of parole and re-arrest in two other criminal cases, shown non-reformative attitude, strong objection by Police, possibility of committing crime again etc., the Board unanimously ***REJECTS*** *premature release of convict Vikram Yadav S/o Inder Singh at this stage."*

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

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

13. The SRB deals with human beings, that too those who have been deprived of liberty across a long span of time on account of their aggression which led to criminality. The approach of the SRB ought to be reformation oriented and not a routine disposal/statistics dominated exercise. The composition of SRB needs to be re-examined by the authorities concerned so as to make the exercise of sentence review meaningful and commensurate to the laudable philosophy of reformation of criminal. It is suggested that the composition of SRB must include the judicial officer concerned (or her/his successor) who sentenced the prisoner under consideration; that judicial officer would better contribute after examining the entire trial and sentencing records. It is further suggested that composition of SRB must include an eminent sociologist and a criminologist with missionary zeal and sensitivity towards reformation of the prisoner under consideration. Another vital component of SRB can be the concerned Jail Superintendent, who had the best opportunity to watch the reformative growth or otherwise of the prisoner concerned from close quarters. In order to ensure meaningful exercise of sentence review, the composition of SRB should be based on nexus between the jail performance of the prisoner and the job profile of the member concerned, instead of just high official designation of the member.

14. As regards application of mind, keeping in view sensitivity of the decision to allow or deny premature release to a prisoner, the application of mind has to be such that reflects application of reasonable and logical parameters. A comparative inventory of aggravating and mitigating factors must be taken on record by SRB in order to arrive at its decision. The

decision, so arrived, must have a reasonable connect with the inventory, aimed at achieving meaningful reformation. In this regard, SRB should also make a graded response in the sense that depending upon the scale of observed reformation of the prisoner, if the stage is considered a bit early for premature release, the prisoner can be shifted initially to semi-open prison, followed by open prison. That gradual movement would give a taste of liberty to the prisoner, which would encourage him to push for his reformation and that would be a meaningful punishment. Not just this, SRB can also consider premature release of the convict/prisoner with necessary directions in the nature of surveillance over specific period, directing the prisoner/convict to report before the local police on a weekly basis for specific period. The binary of grant or denial of premature release has to be discarded.

15. To recapitulate in the present case, the premature release has been declined to the petitioner on the grounds of gravity and perversity of the crime (*abduction for ransom and murder*); jumping of parole and re-arrest in two other criminal cases, showing non reformative attitude; strong objection by police; and possibility of committing crime again. It would be apposite to examine each of these grounds individually.

16. Of course, abduction for ransom, followed by murder is indeed gruesome and needs to be dealt with sternly. But then, one also cannot ignore that the said crime took place way back in the year 2001 and the learned trial court, by way of detailed order on sentence found it not a case

which would call for imposing death penalty, so life imprisonment was imposed. As mentioned above, the petitioner has already undergone the sentence of incarceration for more than 18 years without remission and more than 21 years with remission. Not that due to passage of time, the inherent perversity of the crime *per se* diminishes in any manner. But for the purposes of reformative sentencing, such long incarceration, as already suffered by the petitioner, the perversity must be visualised as faded. The wound suffered by the kith and kin of the deceased, which was fresh in the year 2001, would have by now reduced to scab. Time heals all wounds. This is the only way to fathom in order to ensure purposive application of the reformatory tool of premature release, otherwise no convict would be ever granted an opportunity to reform himself. For, life imprisonment, by its very nature is awarded in gruesome offences where the appropriate punishment is a bit short of awarding capital sentence. A punishment, to be scientific has to have an end somewhere during lifetime of the convict.

17. Then comes jumping of parole by the petitioner and his re-arrest in two more criminal cases. Even that occurred way back in the year 2015. As mentioned above, citing this misconduct, the SRB has repeatedly denied premature release to the petitioner. Some point of time has to be there, when aftereffects of such misconduct must taper down. It has been more than a decade since the petitioner jumped parole and got involved in those two cases. After the year 2015, there is not even a whiff of any allegation of any jail misconduct on the part of the petitioner. Rather, as observed hereafter, subsequently the petitioner was awarded a number of commendations by the

jail authorities. Most significantly, as discussed above, the petitioner stands acquitted in those two cases.

18. As regards possibility of the petitioner committing crime again, merely because he has not physically attained old age, it cannot be said that there are higher chances of his committing crime again. Bodily strength has no nexus with the propensity to commit crime. The propensity to commit crime has to be analysed by examining reformative ascension of the prisoner as reflected from cogent material. The petitioner has filed, with index dated 24.02.2025, six Commendation Certificates issued by the jail and other authorities to him. Those certificates include Certificates of Appreciation for his good work and performance on the occasions of Republic Day of the years 2021 and 2022; Participation Certificate in the foundation course of yoga science, conducted under the Ministry of Ayush, Government of India; Certificate of Appreciation for hard work and efforts in assisting the jail administration in fight against Covid pandemic; Certificate of learning computer science; and Certificate issued by Gandhi Smriti & Darshan Smriti for participation in painting competition. Speaking specifically about conduct of the petitioner during Covid pandemic, according to the Appreciation Certificate dated 10.02.2021 issued by the jail authorities, the petitioner remained associated in cleaning and timely sanitization of jail, ensuring availability and distribution of face masks, sanitizers, hands wash, clean clothes and other daily utility items amongst other inmates; and assisting the jail administration by way of regular counselling of newly admitted prisoners during Covid pandemic. According to the said

Appreciation Certificate dated 10.02.2021, the petitioner had done an extraordinary job in the jail in fight against Corona, due to which the jail administration succeeded in keeping Corona free the jail no.2, even while admitting and quarantining more than 8200 newly admitted prisoners. These certificates, coupled with the fact that across a period of time, the petitioner was released on parole and furlough more than once show a substantial reformative growth of the petitioner, which is a vital indicator of reduced propensity to commit crime again. For, it shows a realisation in the petitioner that he can live life of appreciation by staying away from crime.

19. As regards the said Commendation Certificates, I am unable to agree with the contention of learned ASC that the same only make the prisoner eligible for consideration and cannot be a ground to grant premature release. The policy of 2004, extracted above makes it clear that irrespective of such certificates, every convicted prisoner undergoing life sentence has to be considered for premature release after serving sentence of 14 years without remissions. So far as eligibility or entitlement to be considered for premature release is concerned, the only criteria is that the convicted prisoner must be the one facing a life imprisonment sentence, who has served 14 years of actual imprisonment. The Commendation Certificates, as noted above are guiding tools for SRB in exercise of discretion to grant premature release.

20. As regards the ‘strong objection’ by police to allow the petitioner premature release, no reasonable grounds of objection have been spelt out. However, in this regard, the police also has to shift their paradigm from

oppressive punitive approach to reformatory approach. Not everything propounded for an accused or a convict has to be opposed by police as a matter of routine.

21. In the overall circumstances of this case, I have no doubt that the petitioner stands substantially reformed and can become a useful member of the society. Keeping the petitioner in jail for further period would not yield any fruitful result towards his reformation or to the society at large.

22. I have also deliberated upon the submission of learned ASC that in case the impugned decision (*or indecision*) of SRB is found not sustainable, the matter be remanded for fresh consideration in a time bound manner in the light of parameters to be laid down by this court. As mentioned above, the impugned decision of denial of premature release to the petitioner suffers from vices of non-application of mind and completely mechanical approach to such a sensitive issue. But for the time being, instead of straightaway directing premature release of the petitioner, it is considered appropriate that the SRB be given a chance to re-examine the entire issue in the light of above discussion.

23. In view of the aforesaid, the petition is allowed and the respondent is directed to consider afresh case of the petitioner for premature release in cases FIR No.611/2001 of PS Badarpur and FIR No.261/2001 of PS Seemapuri for offences under Section 302/120B/364A/384/186/353/307/419 IPC in accordance with the policy of the year 2004 and the parameters laid

down and discussed above; the fresh consideration of case of the petitioner shall be concluded within four weeks and the decision shall be communicated to the petitioner within one week thereafter. It is specifically directed that in case the SRB does not find it to be a fit case to grant premature release to the petitioner, the decision of SRB shall be worded in a manner that one can decipher as to what worked in the mind of SRB. Lastly, it is also expected that the competent authority shall deliberate upon the composition of SRB and reconstitute the same, and shall also further finetune the policy of 2004 on the lines discussed above.

GIRISH KATHPALIA
(JUDGE)

JUNE 11, 2025/ry/as