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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 01st October, 2026**# **CNR No. DLHC010475842026**+ **W.P.(CRL) 3116/2026 & CRL.M.A. 31008/2026****MOHD YUNUS**

.....Petitioner

Through: Ms. Puja Bhusari Soni, Adv.
DHCLSC (Through VC)

versus

STATE NCT OF DELHI AND ANR & ANR.

.....Respondents

Through: Mr. Amol Sinha, ASC (Criminal)
with Mr. Kshitiz Garg, Mr. Ashvini
Kumar, Mr. Nitish Dhawan and Mr.
Anshul Sharma, Advs.
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amolsinha.associates@gmail.com
SI Amit, PS Jahangir Puri
M: 9999124260**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral):**

1. The present petition has been filed under Articles 226 and 227 of the Constitution of India, 1950 ("Constitution"), read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), for issuance of a writ of *mandamus* directing the respondents to release the petitioner from judicial custody forthwith.



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2. The petitioner was convicted for the offence under Section 376 of the Indian Penal Code, 1860 (“IPC”), in connection with *FIR No. 115/2001*, registered at Police Station (“PS”) Jahangir Puri, Delhi, and was sentenced to life imprisonment, along with a fine in the sum of Rs. 50,000/-, by the order on sentence dated 19th February, 2003, passed by the Additional Sessions Judge, Tiz Hazari Courts, Delhi. The said order on sentence was upheld in the order dated 29th October, 2003, passed by this Court in *CRL.A. 340/2003*, and a Special Leave to Appeal (Crl) bearing Diary no. *35452/2010* filed against the same was dismissed by the Supreme Court *vide* order dated 22nd November, 2010.
3. Learned counsel appearing for the petitioner submits that the petitioner has been in judicial custody since 19th February, 2001, which includes the period spent in custody as an undertrial prisoner, prior to his conviction.
4. She informs this Court that the petitioner has been in jail for the last 25 years, and is currently imprisoned in Central Jail no. 2, Tihar Jail, Delhi.
5. She further submits that the petitioner has already been directed to be released by the Sentence Review Board (“SRB”) *vide* order dated 05th February, 2026, issued by the Home Department, Government of NCT of Delhi (“GNCTD”).
6. Learned counsel appearing for the petitioner submits that the aforesaid order categorically states that, in the exercise of the power under Section 473 of the BNSS, the un-expired term of sentence of 26 convicts serving life imprisonment, including the petitioner herein, is remitted on the recommendation of the SRB in its meeting dated 23rd December, 2025.
7. She submits that the order of the SRB was passed on 05th February,



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2026, however, the petitioner has still not been released from jail, solely on account of the fact that the petitioner has not paid the fine of Rs. 50,000/- imposed upon him, in addition to his sentence of life imprisonment, *vide* order on sentence dated 19th February, 2003. Further, as per the said order on sentence, in case of default in payment of the fine, the petitioner would undergo simple imprisonment for two years in lieu thereof.

8. In response, learned Additional Standing Counsel (“ASC”) appearing for the respondents relies upon Rule 1176 of the Delhi Prison Rules, 2018 (“Delhi Prison Rules”), to submit that in cases where prisoners are sentenced in default of payment of fine only, they will not be eligible for ordinary remission. Thus, it is submitted that though his unexpired sentence has been remitted, he has been kept in custody on account of his sentence in default of payment of fine.

9. Having heard learned counsels for the parties, at the outset this Court notes Rule 1176 of Delhi Prison Rules, which reads as under:

“xxx xxx xxx

Rule - 1176. Non-Eligibility.

The following types of prisoners will not be eligible for ordinary remission:

- I. Prisoners having substantive sentence of less than two months,
- II. Prisoners sentenced in default of payment of fine only,
- III. Prisoners whose sentence is reduced to less than two months (in such cases remission already earned, if any, should stand forfeited),



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- IV. Prisoners, who are convicted of an offence committed after admission to the prison under Sections: 147/148/152/224/302/304/304A/306/307/308/323/324/325/326/332/333, or 377 of IPC or of an assault committed after admission to the prison on a warder or other officer or under any other law for misusing the concession of parole/furlough granted under that law.
- V. Prisoners debarred from remission as punishment for committing prescribed prison offences,
- VI. Prisoners specifically debarred from remission by the Government or the Inspector General of Prisons or under any law or rule;
- VII. Prisoners undergoing sentence in the Narcotics, Drugs and Psychotropic Substances Act (NDPS) cases, provided they are convicted after the 29th May, 1989;
- VIII. During out-periods which are not reckoned as part of sentence (being periods during bail, escape and other periods, which are treated as out-periods and not reckoned as part of sentence under specific orders of the Government issued in that behalf).

xxx xxx xxx”

10. A plain reading of Rule 1176 (II) of the Delhi Prison Rules shows that it stipulates that a prisoner who is undergoing only fine default sentence is not eligible for ordinary remission. Thus, it is manifest that the said Rule applies to only those prisoners, who are in prison solely on account of default in payment of a fine. The said Rule does not provide that after substantive sentence is remitted by SRB, the convict can be kept in prison to undergo default sentence.

11. In the present case, the petitioner has been in prison and undergoing life sentence on account of being convicted under Section 376 of the IPC, and not merely because he was in default of payment of a fine.

12. However, after the remission of the sentence by the SRB, the



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petitioner has been kept in custody to undergo default sentence. It is only on this basis that by relying upon Rule 1176 of the Delhi Prison Rules that the petitioner has not been released.

13. Such detention of the petitioner is not as per law, as this Court is of the considered opinion that once substantive sentence itself stands remitted by SRB, the Jail Authorities cannot invoke Rules of Ordinary Remission to deny benefit of remission to a convict and continue to detain him in jail.

14. Clearly, Rule 1176 has been misapplied in the present case. The petitioner is a life convict. Upon a pointed query by this Court, learned ASC appearing for the respondents has clarified that the petitioner was sentenced to imprisonment for the remainder of his life.

15. Accordingly, once remission has been granted to the petitioner as a life convict, merely on account of non-payment of fine, the petitioner cannot be detained in custody to undergo default sentence. The order of SRB is very clear that the unexpired term of the sentence of the petitioner has been remitted. This would include the sentence which the petitioner would have to go in the absence of payment of fine.

16. Rule 1176 of the Delhi Prison Rules, 2018 would apply in those cases wherein a convict is undergoing sentence only on account of default of payment of fine. This would not include cases like the petitioner wherein the petitioner had been sentenced to life imprisonment, with fine, with further sentence of simple imprisonment for two years as default sentence in case of non-payment of the fine imposed on him.

17. It is pertinent to note that the petitioner has already been directed to be released on the recommendation of the SRB *vide* order dated 05th February, 2026, wherein, it is stated, in unequivocal terms, that the un-



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expired term of the sentence of the petitioner is remitted. Accordingly, the petitioner is directed to be released forthwith.

18. The present petition, along with the pending application, is accordingly disposed of.

19. A copy of this order shall be sent to the concerned Jail Superintendent for information and necessary compliance.

MINI PUSHKARNA, J

OCTOBER 1, 2026/KR