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

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Date of decision: 21st February, 2025

+ **W.P.(CRL) 2622/2019, CRL.M.A. 35989/2019, CRL.M.A. 35990/2019,**
CRL.M.A. 12823/2021, & CRL. M.A. NO.16939/2024

NAND KISHORE @ NANDA

S/o SH. TOLA RAM

R/o: M-21, A-4, H. No. F-52,

Street Dilshad Garden,

Delhi- 110095

Presently confined in: Open Jail,

Tihar Prison Complex,

New Delhi

....Petitioner

Through: Mr. Sarthak Maggon, Advocate.

versus

THE STATE (N.C.T. OF DELHI)

....Respondent

Through: Mr. Sanjeev Bhandari, ASC (Crl)
with Mr. Arjit Sharma and Mr.
Nikunj Bindal, Advocates with
Insp.Om Prakash, P.S.Vivek Vihar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Writ Petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for issuing Orders to the Respondent for premature release of Petitioner, Sh. Nand Kishore @ Nanda, on the sentence already undergone on account of his exemplary conduct was filed; however, during the pendency of the Petition, the Petitioner has died on 11.05.2024, a



fact which has been confirmed by the Respondent.

2. While it is not denied that the present Petition on account of demise of the Petitioner has become infructuous, but ***Crl. M.A. No.16939/2024 under Section 482 Cr.P.C*** has been filed on behalf of the Applicant through his brother, with the Prayers that the affidavit of the Respondent be called on the questions regarding inordinate delay in grant of premature release of the Petitioner and for repeated rejection by the Sentence Review Board without providing any reasons whatsoever. Reliance has been placed on *Joseph vs. State of Kerala, W.P. (Crl.) No.520/2022*, decided on 21.09.2023 by the Apex Court.

3. It is submitted in the Application that the Petitioner was enlarged on emergency parole and had made substantial attempts to rehabilitate himself in society. He had assisted two Law Chambers in their administrative office work and the grant of premature release to the Petitioner should have been ensured for the complete, uninterrupted and permanent rehabilitation of the Petitioner.

4. He was the first time convict and had undergone actual imprisonment of about 28 years. He had availed 7 Paroles and 27 Furloughs and had never misused his liberty during the period of Parole or Furlough. He had completed maximum threshold of incarceration contemplated under the Delhi Prisons Rules, 2018 and had maintained consistent good conduct without exception.

5. In the main Petition, the Petitioner had asserted that his representation for premature release since he had completed 17 years and 5 months of



incarceration was forwarded to Sentence Review Board but was dismissed despite the conduct of the Petitioner being completely satisfactory during his judicial custody.

6. SRB completely disregarded the long incarceration of the Petitioner of around 20 years in actual and around 28 years with remission while rejecting his Application for premature release.

7. The Petitioner was 64 years old and was in dire need of constant medical attention. He had a medical history wherein he had undergone an operation of Hernia at Deen Dayal Upadhyay Hospital in 2010. He later suffered from Prostrate and stomach issues leaving him in need of constant medical attention. Despite his critical medical condition and he being on death bed, he was not granted a premature release. He subsequently died on 11.05.2024. This emphasises the grave and urgent circumstances surrounding the Petitioner's plea for premature release, which had not been granted.

8. It is, therefore, imperative upon the State to answer the following queries on affidavit:-

A. Whether the State has failed in its duty to release a prisoner after 25 years of maximum incarceration as reiterated in Joseph v. State of Kerela, SRB minutes of Prem Chand S/o Sh. Sher Singh, NHRC Policy and the 2004 guidelines?

B. What are the reasons for delay in organising meetings and for release of Petitioner and how has the delays in organizing the required meetings impacted the petitioner's legal rights?



- C. *What are the reasons for non- consideration of Petitioner in every subsequent meeting of the SRB while being rejected on identical grounds despite the fact that the petitioner had remained in open jail throughout the period of his consideration and had maintained consistent good conduct and further on the ground that other convicts convicted of multiple murders had already been released and the petitioner was entitled to equal protection under law?*
- D. *What are the reasons for non-application of the ratio of the precedents set in the *Sushil Sharma v. State* (W.P. (Crl.) 3798/2018) and *Wahid Ahmed v. State of NCT* (W.P. (Crl.) 906 of 2022), Delhi High Court, whereby the template minutes of the SRB are declared to be unreasoned, whimsical and fanciful, however, the same template minutes have been provided for the petitioner herein above?*
- E. *What are the reasons for delay in decision on the representation of the petitioner even after filing the captioned Writ petition without assigning any reasons in contravention with 3 month timeline threshold envisaged in the landmark judgment of The Home Secretary (Prison) & Ors. v. H. Nilofer Nisha, SC and further to justify the delay of almost 9 months in filing/placing on record status report as sought by the court on 17.07.2023 which is not been brought on record till the last date of hearing i.e. 09.05.2024 and the same has been recorded on the order sheet?*



F. What are the reasons for non consideration of precedents as set in State of Haryana v. Mahender Singh & Ors., 2017(13) SCC 606 and Surender v. State of Haryana, 2022 Pb & Hry.550 whereby the classification in respect of prolonged incarceration for convicts convicted for multiple murders has been considered bad in law since the number of murders committed cannot be considered as grounds for more severe punishments?

G. What are the reasons for placing heavy reliance on the police report which is a departure from the 2004 guidelines which clearly states that the police report must not be relied upon while considering the case for premature release of a convict? Further the respondent must be called upon to explain the reasons for rejecting grant of premature release based on heinousness and gravity of offence since it has specifically been laid down in Satish @Sabbe v. State of Uttar Pradesh, SC 2019, that heinousness of an offence cannot constitute grounds for rejection of representation of premature release?

9. A prayer is, therefore, made that an Affidavit of the Respondent be called to answer the questions stated in the Application, to explain the inordinate delay in grant of premature release to the Petitioner who has died while his Petition was pending consideration.

10. **Submissions heard and record perused.**

11. As per the submissions made in the Petition, the Petitioner had been convicted under Section 302/309 IPC in FIR No.243/2002 on 24.05.2008



and was sentenced to life imprisonment (for life) and fine of fine of Rs.1000/-. In default, SI of one month.

12. An Appeal being Crl.A.539/2008 preferred by him was disposed of by this Court on 20.04.2010.

13. Thereafter, SRB held its meeting on 18.07.2019 but rejected the representation of the Petitioner. Unfortunately, while the present Petition seeking premature release in terms of the Policy guidelines of SRB was pending, the Petitioner herein died on 11.05.2024.

14. It is an unfortunate situation where because of various reasons the Petition could not be considered on merits. However, unfortunate the situation may be, the present *Miscellaneous Application* so filed on behalf of the deceased Petitioner, questioning the reasons for delay on the part of SRB and the delay in disposal of the present Petition, is not within the scope of the present Petition.

15. It may be a case where strict compliance of the Remission Policy must be ensured, but it cannot be a ground to have a roving enquiry about what were the reasons for rejection of the Remission Application of the Petitioner from time to time. Apposite it is to observe that the present Petition had been filed to question the case of SRB in rejecting the remission. The administrative decisions of SRB are always subject to the Court decisions and in the appropriate cases the relevant directions have also been made.

16. Unfortunately, the present case the Writ Petition has become infructuous on account of demise of the Petitioner. A roving enquiry to



ascertain the reasons of delay would not yield any result and is not warranted in the present case.

17. There is no merit in the present Application which is hereby dismissed.

18. The main Writ Petition is also disposed of as having become infructuous on account of the demise of the Petitioner.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 21, 2025

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