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

Date of decision: 07th July, 2025

\+ **W.P.(CRL) 109/2025 & CRL.M.(BAIL) 77/2025**

HARI SINGH .....Petitioner

Through: Mr. Kanhaiya Singhal, Mr. B. Singh, Mr. Kanav Gupta, Mr. Prasana and Mr. Rishabh Bhardwaj, Advocates.

versus

STATE NCT OF DELHI & ORS. .....Respondents

Through: Mr. Amol Sinha, ASC (Crl.) with Mr. Kshitiz Garg, Mr. Ashvini Kumar and Mr. Nitish Dhawan, Advocates for State.
SI Prashant, P.S. Domestic Airport.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner is a convict serving life imprisonment for the offence committed under Section 4 of the Anti-Hijacking Act, 1982[1] as well as the offences under Sections 353, 365 and 506(II) of the Indian Penal Code, 1860[2] in FIR No. 07/1993, registered at P.S. Palam Airport, Delhi. Through the present petition under Article 226 of the Constitution of India, he seeks to challenge the decision of the Sentence Review Board[3] dated 23rd February, 2024, declining his request for premature.

[1] "AH Act"
[2] "IPC"
[3] "SRB/the board"

2. The facts giving rise to the present case are summarised as follows:

2.1 On 27th March, 1993, the Petitioner hijacked an Indian Airlines Airbus being Flight No. IC 439, which had taken off from the Palam Airport, New Delhi and was bound for Madras with a stopover at Hyderabad. The said hijacking took place while the aircraft was airborne, approximately 100 miles away *en-route* to Hyderabad. Thereafter, the Domestic Airport, Palam control room received information that the said flight was returning as there was an emergency landing. According to the information, which was recorded as Diary entry no. 6, the incident was suspected to be a hijacking. This information was then relayed to the Palam Airport and other investigation agencies, including the DCP of the Indira Gandhi International Airport.

2.2 Ultimately, the aircraft landed at Rajasansi airport, Amritsar, where the Petitioner was arrested and subsequently convicted for the offence under Section 4 of the AH Act as well as for the offences under Sections 353, 365, and 506 (Part II) of the Indian Penal Code, 1860. Accordingly, he was sentenced to undergo life imprisonment for the offence under Section 4 of the AH Act, RI for two years each for the offence under Section 353 and 365 of IPC respectively and RI for a period of 7 years for the offence under Section 506(II) of IPC. The sentences were directed to run concurrently by the Trial Court.

2.3 Petitioner's challenge to conviction and order of sentence was unsuccessful before the Division Bench of this Court in CRL.A. 598/2001. Subsequently, a Special Leave Petition was also preferred before the Supreme Court against the judgement of the Division Bench, however the same was dismissed as withdrawn. Since then, the Petitioner has been

incarcerated and has been serving his sentence.

2.4 Upon becoming eligible for premature release as per the policy dated 16th July, 2004 issued by the Government of NCT of Delhi, the case of the Petitioner was considered and rejected by the SRB for the first time on 22nd November, 2021. Thereafter, although the Petitioner's case has been periodically taken up for consideration of premature release by the SRB, it has been consistently rejected.

2.5 In this regard, the present petition impugns the minutes of meeting of the Sentence Review Board[4] dated 23rd February, 2024, whereby his request has been rejected once more.

2.6 At the outset, it must be noted that subsequent to the filing of the instant petition, the Petitioner's case for premature release has yet again been considered and rejected by the SRB in the meeting held on 24th April, 2025 communicated to the prison authorities *vide* order dated 8th May, 2025.

3. Although the subsequent decision itself has not been challenged, the grounds urged in the present petition are squarely applicable to the same. Hence, with the consent of the parties, this Court has examined the matter having regard to the latest rejection by the SRB of the Petitioner's request for premature release – i.e., as held in the meeting dated 24th April, 2025. The same reads, as follows:

> *"**Item No. 11: The case of Hari Singh S/o Sh. Ganeshi Lal - (Age-70 Yrs.)***
>
> *(i) Background:*
> *This case was deferred in SRB meeting held on dated 10.12.2024 and has been put up in compliance to the order dated 21.02.2025 in Special Leave Petition (Criminal) No(s) 1484-1496 of 2024 passed by the Hon'ble Supreme Court of India in the matter Satender Singh etc. Vs. State (Govt. of NCT of Delhi).*

[4] "SRB/the board"

(ii) ***Eligibility conditions:***
14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e. without remissions. This case has been considered under the rule of 1253 of Delhi Prison Rules, 2018 issued by the Govt. of NCT of Delhi i.e. policy that was existing on the date of conviction.
(iii) ***Sentence details:***
Hari Singh S/o Sh. Ganeshi Lal is undergoing life imprisonment in case FIR No. 07/1993, U/S 186/353/365/506 (II) IPC & 4 Anti Hijacking Act, P.S. Palam Airport, Delhi for Hijacked flight of Indian Airlines. As on 21.04.2025, the convict has undergone imprisonment of 17 years, 00 months 14 days in actual and 21 years, 00 months & 03 days with remission. He has availed Interim bail 01 times, Parole 11 times and furlough 15 times.
(iv) ***Recommendations:***
The Board considered the reports received from Police and Social Welfare Departments and took into account all the facts and circumstances of the case. The manner under which the crime was committed, horrifying act of hijacking of an Indian Airlines flight with 192 passengers and taking the flight to Pakistan that finally landed in Amritsar, the gravity of the offence cannot be considered leniently specially when that was occupied fully with passengers & crew staff of the flight. The Board is conscious that the age of the convict is 70 years and there is no misconduct reported during incarceration but the circumstances under which the offence was committed and its manner cannot be treated less than a terrorist act/anti-national act.
The Board also felt that the conduct of the convict in jail is not necessarily a barometer of what he may do outside prison and thus the same could not be considered a sole factor for recommending the premature release. Thus, the Board after due deliberation unanimously decided to ***REJECT*** *premature release of convict Hari Singh S/o Sh. Ganeshi Lal at this stage."*

4. Before examining the specific grounds of challenge raised in the present petition, it must be noted that this Court, by way of judgment dated 1st July, 2025, in ***Santosh Kumar Singh v. State (Govt. of the NCT) of Delhi***[5], has already delved into SRB's jurisdiction and mandate of deciding cases of premature release as per the prevailing policies of the State. Therefore, those aspects need not be specifically discussed in the instant petition. The reasoning of this Court in the said judgment would apply *mutatis mutandis* to the present case.

[5] 2025:DHC:5138

5. As per the nominal roll placed on record, as on 12th May, 2025, the Petitioner has undergone 17 years, 11 months and 6 days of actual imprisonment and of 22 years, 6 months and 20 days of total imprisonment (including remission). In the aforenoted impugned minutes, the SRB has rejected the request of the Petitioner after taking into consideration the reports received from the Police and Social Welfare Department as well as the facts and circumstances of the case.

6. In this regard, it must also be noted that even though the SRB has considered the advanced age of the convict and the absence of any misconduct during the period of incarceration while evaluating his request, the same was rejected solely on the basis of the gravity of the offence committed by the Petitioner. The board concluded that the circumstances under which the offence was committed and its manner '*cannot be treated less than a terrorist act/anti-national act*'. Moreover, the board has also stated that the "*conduct of the convict is not necessarily a barometer of what he may do outside the prison and thus the same could not be considered as the sole factor for recommending pre-mature release*".

7. This Court, in the judgement dated 1st July, 2025 referred above, has already opined that the decision of the SRB cannot be based solely on the gravity of the offence committed by the convict serving life sentence as undoubtedly the cases considered by the SRB would involve heinous and serious offences for which the convicts have been awarded life sentences. The said holding squarely applies to the facts of the present case.

8. Moreover, this Court also held that disregarding the conduct of the convict while under incarceration, effectively nullifies the probative value of the convict's post-conviction reformative efforts and reflects a patently

erroneous and arbitrary approach adopted by the SRB, which undermines the very purpose of the remission policies of the State.

9. Thus, in the opinion of the Court, the reasoning provided by the SRB while rejecting the application of the Petitioner in the present case, is inadequate and does not meet the requisite standards of reasonable justification necessary for an order passed by an executive authority under administrative mandate, thereby rendering the said decision arbitrary.

10. It must also be noted that the commutation role of the Petitioner, which has been considered by the SRB in its decision, places reliance on the report furnished by the Assistant Commissioner of Police, wherein it has been emphasised that if the Applicant is released prematurely, he may commit a similar offence yet again. A similar concern has been voiced by the office of Deputy Commissioner of Police, South Gurugram, which is the jurisdiction where the Applicant's residence is located.

11. However, in the opinion of this Court, the question as to the propensity of the Petitioner to reoffend ought to have been assessed in light of his advanced age of 70 years as well as the observations made by the Division Bench of this Court while upholding his conviction.

12. Moreover, as emphasised by this Court in the judgement dated 1st July, 2025, the question of a convict's likelihood to commit crime in the future must be evaluated on the basis of the reformative efforts undertaken by him as well as expert inputs, specifically in terms of a psychological assessment of the convict.

13. That said, this Court would be remiss if it does not take note of the broader context in which the original offence occurred. The facts of the case, as noted in the decision of the Division Bench dated 29th March, 2011, while

upholding the conviction and sentence awarded to the Petitioner, suggest that he may have been driven by disillusionment with declining social values, perceived corruption in high places, the unreliability of the political class, frustration with societal violence and other public issues. As noted in the said judgment, the Petitioner was un-armed at the time of the hijacking and he did not appear to have harboured any genuine intent to cause harm to any passenger or crew member. Rather he only sought to draw attention, however misguidedly, to issues which, in his view, required urgent public and institutional response. The relevant observations of the Division Bench are as follows:

> *"44.* ***The record no doubt reveals that the Appellant was indeed unarmed, and behaved with politeness and courtesy. Perhaps he genuinely did not mean to harm anyone. Further, the issues and concerns he voiced in his long letter, are a matter of public concern, which should engage robust and meaningful debate in our society, if we are to overcome the multifarious challenges faced by the country.*** *The issues are such as would worry every citizen, and lead him to think for solutions.* ***Yet, the court is also equally mindful of the fact that even if the end— i.e highlighting the pressing need to address such public issues — is noble and unexceptionable, it is vital that the means to achieve it are also equally blameless. Writing a note like EX. PW-3/B and diverting the aircraft through threat of bombing it, cannot be condoned****. **A conviction is justified in the facts of the case. Unfortunately for the Appellant, there is no sentencing choice once a conviction is returned, because Section 4 mandates only one punishment, i.e. life imprisonment.***
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> *45. This court felt it necessary to discuss the conduct and behaviour of the Appellant, which would otherwise have been considered as mitigating factors, in the peculiar facts of this case. The evidence on record also indicates that the Appellant had worked as a teacher, and used to prepare posters, during election campaigns. He had, at some stage, been associated with political leaders.* ***The contents of the 31 page note reflect deep anguish and a sense of helplessness and frustration, which many concerned and responsible citizens might well empathize with. The prosecution also does not prove any previous criminal record.*** *The evidence of PW-16, i.e the Appellant's sister, indicates that he sold his wife's jewellery to purchase the aircraft ticket (and perhaps fund the*

> *entire misadventure).* ***The court also notes that the Appellant had been on bail during the trial; he served about 4 years of imprisonment. The court had suspended his sentence after considering the nominal roll furnished by the jail authorities, dated 18th July, 2003, which stated that the Appellant had "done hard work dedicatedly and his conduct has been excellent.""***
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> [Emphasis added]

14. The above observations, highlight that even though one could possibly sympathise with the Petitioner's goal of attracting attention to pertinent issues which plague society, the unlawful manner in which he chose to express these concerns, could not be condoned and hence the conviction was upheld.

15. However, at the same time, the Division Bench expressed an inclination to take a lenient view on the question of sentence, having regard to the overall circumstances of the case. Yet, being constrained by the statutory mandate under Section 4 of the AH Act, which prescribes the sole punishment to be that of life imprisonment, the Court did not interfere with the same.

16. That being said, the issue presently under consideration is whether the Petitioner has demonstrated genuine reformation and whether he continues to pose a threat to the society. In this regard, in the opinion of this Court, if the abovementioned remarks of the Division Bench are read holistically, they suggest that the Court viewed the Petitioner's conduct during the hijacking as being reflective of a certain moral or ideological motivation, rather than arising from criminal proclivity or personal gain. This, coupled with the Petitioner's otherwise unblemished conduct and background was a significant factor for the Court to even consider reducing the sentence awarded, albeit the same could not have been done in light of the mandate of

Section 4 of the AH Act. Accordingly, despite the mitigating factors, the life sentence awarded to the Petitioner was upheld by the Division Bench.

17. Although these judicial observations were made at the stage of conviction, the same are directly relevant to the SRB's assessment of the Petitioner's reformative state and the likelihood of him reoffending and as such, the same ought to have been considered by the SRB.

18. In the opinion of this Court, the SRB ought to have given some heed to the same as the purpose of premature release is reformation and not retribution. In this regard, it is important to take note of the observations made by a co-ordinate bench of this Court in the recent judgement of ***Vikram Yadev v. State Govt. of NCT of Delhi***[6], wherein the Court suggested that the composition of the SRB should include the judicial officer who sentenced the convict as they would be better suited to contribute as to any possible reformative potential of the convict. The relevant observations of the Court are as follows:

> *"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*

[6] 2025 SCC OnLine Del 4501

> *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."*
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> [Emphasis added]

19. The suggestion made in ***Vikram Yadav*** regarding the inclusion of the sentencing court in the SRB highlights the value of judicial insight in assessing reformative potential. While the Division Bench in the present case was not the sentencing court in the strict sense, it exercised appellate jurisdiction and was therefore seized of the entire trial record, evidence, and the nature and context of the offence. Its observations, grounded in a comprehensive judicial evaluation of the facts, carry some weight and ought to have informed the SRB's decision-making.

20. Moreover, Rule 1244 of the Delhi Prison Rules, 2018, specifically lays down that the primary objective underlying premature release is reformation of offenders and their rehabilitation and integration in society, while at the same time ensuring the safety and protection of society from criminal activities.

21. As is evident from record, in the present case, the Petitioner's conduct in jail does indicate elements of reformation, as even over a long period of incarceration (almost 18 years of actual imprisonment), there is no record of any untoward incident which would indicate that the Petitioner still harbours elements of criminality.

22. The only instance of the Petitioner having violated prison rules is the time he overstayed the extended furlough granted to him by this Court *vide* order dated 24th January, 2024. This overstay was only for 2 days and appears to have been inadvertent. This Court, as well as other co-ordinate

benches, have since quashed punishment tickets issued in such cases. Accordingly, it is directed that the Punishment Ticket No. 83 dated 10th October, 2023, shall not prejudice the consideration of the Petitioner's case by the SRB in the future.

23. In view of the foregoing discussion, and in light of the principles laid down by this Court in the judgement dated 1st July, 2025 titled ***Santosh Kumar Singh v. State (NCT of Delhi),*** it is evident that the impugned decision of the SRB suffers from inadequacy of reasoning and non-consideration of relevant materials, including judicial observations bearing upon the Petitioner's conduct and reformation. Thus, the said decision cannot be sustained.

24. Accordingly, the following directions are issued:

(i) The latest minutes of the SRB meeting dated 24th April, 2025 *qua* the Petitioner are hereby set aside;

(ii) The Petitioner's case is remanded back for fresh consideration, in light of the observations made hereinabove and having regard to the judgment of this Court dated 1st July, 2025. The SRB shall render its decision in this regard, within a period of eight weeks from today.

25. With the above directions, the present petition is disposed of, along with pending application(s).

SANJEEV NARULA, J

JULY 7, 2025
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