

ITEM NO.26 Court 9 (Video Conferencing) SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Cr1.) No. 529/2021

(Arising out of impugned final judgment and order dated 19-10-2012 in CRA No. 118/2008 passed by the High Court Of Chhatisgarh At Bilaspur)

SONADHAR Petitioner(s)

VERSUS

THE STATE OF CHHATTISGARH Respondent(s)

(FOR ADMISSION AND I.R.)

(IA No. 129912/2020 - EXEMPTION FROM FILING O.T.)

Date : 01-02-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Ms. Liz Mathew, AOR (AC)

For Respondent(s) Mr. Gaurav Agrawal, AOR

Mr. Rajesh Pandey, Adv.
Ms. Aswathi M.K., AOR

UPON hearing the counsel the Court made the following
O R D E R

We find from the facts that the petitioner/accused completed the sentence of 14 years in March, 2017 and as per Rule 358 of the Chhattisgarh Prison Rules, his case for remission was required to be considered. We are of the view that in such cases the Superintendent Jail should be looking into all such matters and making sure that remedy is available to the detenu.

The case of the petitioner was sent after two and a half years on 17.09.2019 and thereafter it took the Home Department of Chhattisgarh one more year to accept the case for remission on 30.09.2020 and finally the petitioner being released from jail on 02.10.2020.

We call upon the State of Chhattisgarh to file an affidavit setting out as to what process they have or propose to initiate to ensure that immediately on completing 14 years of sentence as per the Rules, the Superintendent, Jail is responsible for ensuring that the application is sent for consideration for remission, not later than one month from the date of completion of the said sentence.

We would also like time schedules to be fixed within which such an application is processed by the Home Department and this should not take more than two to three months, unlike the present case where it has taken a year.

The objective of our directions is to ensure that such situations at least do not arise in future.

An affidavit in this behalf be filed within three weeks.

We may also notice that the focus appears to be on forwarding the papers to file a SLP on the anvil of 14 years expiry to complete formality (most of such appeals result in dismissal orders as being without merits) rather than ensuring that the application for remission is forwarded and considered expeditiously. In fact such appeals are being filed within the range of 13 or 14 years, or on completion of sentence or as in the present case sometimes even years thereafter.

We have also perused the report of the National Legal Services Authority (NALSA). The report shows that information has been sought from the State Legal Services Authorities and the data filed with the report is as under :

- | | | |
|----|---|------|
| a) | Applications of the convicts for premature release pending | 1649 |
| b) | Prisoners who have not applied for premature release | 431 |
| c) | Convicts whose applications for premature release have been rejected | 752 |
| d) | Convicts who seek legal aid for the purposes of their premature release | 83 |

application

The aforesaid shows that there are 1649 applications of convicts for premature release pending. It should be verified as to how long have these applications been pending to get us an insight into this issue.

We also find that 431 prisoners have not applied for premature release and thus may not be aware of their rights. It is towards this objective that we have passed the directions in the present matter which pertains to Chhattisgarh but the same principles must apply across the board.

We thus call upon Mr. Gaurav Agrawal, who is assisting us on behalf of the NALSA, to ensure that the order is circulated to all the States to ensure compliances and the different States should submit their reports through the State Legal Services Authorities to the NALSA which may then place the picture before us as to how to streamline the process. Mr. Gaurav Agrawal may also make his own suggestions as to how the process can be streamlined.

We may emphasize that the role of NALSA is to prefer SLPS where it is felt that the order deserves to be examined on merits but where the order is not

faulty on merits, the focus may shift to make sure that the remedy available to the detenues, more specifically of remission is made available at the earliest. We are of the view that the services of the para legal volunteers who visit jails should be utilized for this purpose under the guidance of the NALSA, if so required.

List on 01.03.2021.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[ANITA RANI AHUJA]
ASSISTANT REGISTRAR