



NC: 2026:KHC:15413
WP No. 25250 of 2025

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.25250 OF 2025 (GM-POLICE)

BETWEEN

SRI KISHAN
S/O LALARAMJI,
AGED ABOUT 36 YEARS,
R/AT 3RD CROSS,
VENKATAPURA,
KORAMANGALA,
BENGALURU-560034

CURRENTLY SERVING SENTENCE IN
CENTRAL PRISON, MYSORE.

... PETITIONER

(BY SRI. PRADEEP PATIL., ADVOCATE FOR
SRI. PRATHAP S.S., ADVOCATE)

AND



1. THE STATE OF KARNATAKA
BY THE PRINCIPAL SECRETARY,
HOME DEPARTMENT,
VIDHANA SOUDHA,
BENGALURU-560001

2. THE DIRECTOR GENERAL OF POLICE
PRISONS AND CORRECTIONAL
SERVICES,
NO.9, SHESHADRI ROAD,
GANDHI NAGAR,
BENGALURU-560009



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3. THE CHIEF SUPERINTENDENT
 CENTRAL PRISON,
 MYSORE-570007

.... RESPONDENTS

(BY SRI. PRADEEP C.S., AAG A/W
 SMT. K.P. YASHODHA., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF MANDAMUS TO THE R3 TO RELEASE THE PETITIONER FROM PRISON FORTHWITH, IN VIEW OF THE ORDER PASSED BY THE HONORABLE APEX COURT IN SUKHDEV YADAV @ PEHALWAN V/S STATE OF NCT OF DELHI AND OTHERS IN CRIMINAL APPEAL NO.3271 OF 2025, PRODUCED AS ANNEXURE -C.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 05.02.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CAV ORDER

1. The Petitioner is before the Court seeking for the following reliefs:

a) Issue a writ, order or direction in the nature of Mandamus to the respondent No.3 to release the petitioner from prison forthwith, in view of the order passed by the Hon'ble Apex Court in Sukhdev Yadav @ Pehalwan v/s State of NCT of Delhi & Others in Criminal Appeal No. 3271 of 2025) produced as Annexure-C.

b) Pass such other order/s directions considering the facts and circumstances of the case together as to costs in the interest of justice.



2. The petitioner was convicted for the offences punishable under Section 302, 364A of Indian Penal Code and awarded death sentence in SC No.463/2003 by the IV Additional City Civil and Sessions Court, Mayo Hall Unit, Bengaluru. A challenge having been made, this Court in Criminal Appeal No.1197/2008 vide judgment dated 6.6.2013 modified the death sentence to life imprisonment. The said modified order reads as under:-

"On thorough consideration of the facts, we find that the case does not appears to be one of the rarest of rare case. It may be fact that it is a gruesome murder and two innocent children have been murdered. But none the less, the murder does not appear to be rarest of rare case, which calls for death sentence. Accordingly, the death sentence awarded by the trial court is modified and accused nos.1 to 3 are sentenced to life imprisonment.

It is further directed that accused nos.1 to 3 shall not be given commutation after completion of fourteen years of imprisonment as a matter of routine. The accused have to serve the life sentence and they should be in jail in terms of Section 57 of IPC. Accordingly, the reference and appeals are disposed of."

3. The petitioner claims to have undergone twenty years of actual imprisonment as on 15.1.2025. His conduct being satisfactory and there being no adverse report as per the Imprisonment Certificate dated 15.1.2025, the petitioner claims that he is entitled to premature release.



4. Sri.Pradeep Patil/Sri.Prathap S.S., learned counsel for the petitioner in this regard relies upon the decision of the Hon'ble Apex Court in the case of ***Sukhdev Yadav @ Pehalwan vs. State of (NCT of Delhi) & others***¹ more particularly Paras 3.2, 15, 15.1, 15.2, 15.3, 15.4 and 16, which are reproduced hereunder for easy reference:

3.2. *The relevant facts of the case are that on 17.02.2002, FIR No. 192/2002 was registered at P.S. Kavi Nagar, District Ghaziabad, Uttar Pradesh under Section 364/34 of the Indian Penal Code, 1860 (hereinafter, "IPC") on the basis of a complaint filed by Smt. Nilam Katara i.e. complainant and mother of the deceased. On 28.05.2008, after completion of investigation and trial, his co-convicts – Vikas Yadav and Vishal Yadav – were convicted for commission of offences under Sections 302, 364, 201 read with Section 34 of the IPC in SC No. 78/2002 by the Additional Sessions Judge (01), New Delhi, ("Sessions Court"). Thereafter, they were sentenced to undergo life imprisonment as well as fine of Rs. 1,00,000/- each under Section 302 of the IPC and in default of payment of fine, to undergo simple imprisonment for one year. They were sentenced to rigorous imprisonment for ten years and fine of Rs. 50,000/- each for their conviction under Section 364/34 IPC and in default of payment of fine, to undergo simple imprisonment of six months, and rigorous imprisonment for five years and fine of Rs. 10,000/- each under Section 201/34 IPC and in default of payment of fine, to undergo simple imprisonment for three months. All sentences were to run concurrently.*

15. *The sentence imposed on the appellant herein, inter alia, is recapitulated as under:*

"Life imprisonment which shall be 20 years of actual imprisonment without consideration of remission, and fine of Rs. 10,000/-."

The word "which" used after the words "life imprisonment", is an interrogative pronoun, related

¹Criminal Appeal No.3271/2025 dated 29.7.2025



pronoun and determiner, referring to something previously mentioned when introducing a clause giving further information. Therefore, the sentence of life imprisonment is determined as twenty years which is of actual imprisonment. Further, during the period of twenty years, the appellant cannot seek remission during his sentence of twenty years of imprisonment i.e., after completion of fourteen years as per Section 433A of the CrPC but must continue his sentence for a period of twenty years without any remission whatsoever. Therefore, the appellant has no right to make any application for remission of the above sentence for a period of twenty years.

15.1. *In Criminal Appeal Nos. 1531-1533 of 2015 filed by Vikas Yadav as well as in Criminal Appeal Nos. 1528-1530 of 2015 which also included the appeal filed by the appellant herein, the imposition of a fixed term sentence on the appellants by the High Court was also questioned but this Court observed that such a term of sentence on the appellants by the High Court could not be found fault with. Placing reliance on Gopal Singh v. State of Uttarakhand, (2013) 7 SCC 545, at paragraph 84 of its judgment in the aforesaid criminal appeal, this Court observed that "Judged on the aforesaid parameters, we reiterate that the imposition of fixed terms sentence is justified."*

15.2. *In the instant case, as already noted, the life imprisonment being twenty years of actual imprisonment was without consideration of remission. Soon after the period of twenty years is completed, in our view, the appellant has to be simply released from jail provided the other sentences run concurrently. The appellant is not under an obligation to make an application seeking remission of his sentence on completion of twenty years. This is simply for the reason that the appellant has completed his twenty years of actual imprisonment and in fact, during the period of twenty years, the appellant was not entitled to any remission. Thus, in the instant case, on completion of the twenty years' of actual imprisonment, it is wholly unnecessary for the appellant to seek remission of his sentence on the premise that his sentence is a life imprisonment i.e. till the end of his natural life. On the other hand, learned senior counsel appearing for the respondent-State and respondent-complainant contended that once the period of twenty years is over, which was without any consideration of remission, the appellant had to seek remission of his sentence (life*



imprisonment) by making an application to the Sentence Review Board which would consider in accordance with the applicable policy and decide whether the remission of sentence imposed on the appellant has to be granted or not. Such a contention cannot be accepted for the following reasons:

(i) firstly, because, in the instant case, the sentence of life imprisonment has been fixed to be twenty years of actual imprisonment which the appellant herein has completed;

(ii) secondly, during the period of twenty years the appellant was not entitled to seek any remission; and

(iii) thirdly, on completion of twenty years of actual imprisonment, the appellant is entitled to be released.

15.3. *This is because in this case, instead of granting death penalty, alternative penalty of life imprisonment has been awarded which shall be for a period of twenty years of actual imprisonment. That even in the absence of death penalty being imposed, life imprisonment of a fixed term of twenty years was imposed which is possible only for a High Court or this Court to do so. The period of twenty years is without remission inasmuch as the appellant is denied the right of remission of his sentence on completion of fourteen years as per Section 432 read with Section 433-A of the CrPC. Such a right has been denied by the High Court but that does not mean that on completion of twenty years of imprisonment the appellant has to still seek reduction of his sentence on the premise that he was awarded life imprisonment which is till the end of his natural life. If that was so, the High Court would have specified it in those terms. On the other hand, the High Court has imposed life imprisonment which shall be twenty years of actual imprisonment without consideration of remission. The High Court was of the view that for a period of twenty years, the appellant has to undergo actual imprisonment which would not take within its meaning any period granted for parole or furlough.*

15.4. *In the instant case, the actual imprisonment of twenty years was admittedly completed by the appellant on 09.03.2025 which was without any remission. If that is so, it would imply that the appellant has completed his period of sentence. In fact, the award of the aforesaid sentence was also confirmed by this Court. On completion of twenty years of actual imprisonment on*



09.03.2025, the appellant was entitled to be released. The release of the appellant from jail does not depend upon further consideration as to whether he has to be released or not and as to whether remission has to be granted to him or not by the Sentence Review Board. In fact, the Sentence Review Board cannot sit in judgment over what has been judicially determined as the sentence by the High Court which has been affirmed by this Court. There cannot be any further incarceration of the appellant herein from 09.03.2025 onwards. On the other hand, in the instant case, the appellant's prayer for furlough was refused by the High Court and, thereafter, this Court granted furlough only on 25.06.2025 as he had completed his actual sentence by then, pending consideration of the amended prayer made by the appellant herein on completion of his sentence on 09.03.2025. Therefore, the continuous incarceration of the appellant from 09.03.2025 onwards was illegal. In fact, on 10.03.2025, the appellant ought to have been released from prison as he had completed the sentence imposed on him by the High Court as affirmed by this Court.

16. *A copy of this order shall be circulated by the Registry of this Court to all the Home Secretaries of the States/Union Territories to ascertain whether any accused/convict has remained in jail beyond the period of sentence and if so, to issue directions for release of such accused/convicts, if not wanted in any other case.*

- 4.1. By relying on ***Sukhdev Yadav @ Pehalwan***, learned counsel submits that where a sentence of life imprisonment is specified to mean a fixed term of actual imprisonment without remission, the convict becomes entitled to be released immediately upon completion of the said period of actual imprisonment, and such release does not depend upon any further consideration by the Sentence Review Board or the grant of



remission by the State. He would therefore contend that once the period of sentence imposed by the Court has been fully undergone, any continued incarceration would be illegal, as held by the Hon'ble Supreme Court in the aforesaid decision.

- 4.2. He relies on Section 57 of the IPC, which reads as under:

57. Fractions of terms of punishment.—In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.

- 4.3. Placing reliance on the aforesaid provision, learned counsel submits that life imprisonment is to be reckoned as equivalent to twenty years of imprisonment, and therefore a convict who has been sentenced to life imprisonment would be entitled to be released upon completion of twenty years of imprisonment. It is further contended that unless a specific minimum period of incarceration is prescribed in the order of conviction, a sentence of life imprisonment must be understood as being satisfied upon completion of twenty years of imprisonment. On that premise, it is submitted



that the petitioner having completed the said period of incarceration, the continued detention is illegal and the present petition deserves to be allowed.

5. Sri.Pradeep C.S., learned Additional Advocate General would submit that:

5.1. The interpretation sought to be placed by the petitioner on the operative portion of the judgment passed in the aforesaid Criminal Appeal is wholly misconceived. The petitioner was originally convicted and sentenced to death, which, in appeal, came to be commuted to life imprisonment. The mere reference to Section 57 of the Indian Penal Code in the judgment does not mean that the sentence of life imprisonment is restricted to a period of twenty years. A sentence of life imprisonment ordinarily means imprisonment for the remainder of the natural life of the convict, unless specifically limited by the Court.

5.2. He would further submit that it is only in cases where the conditions governing premature release or remission are satisfied that a convict may be released before completion of the entire life term. Normally, a convict becomes eligible



to seek premature release after undergoing fourteen years of actual imprisonment. However, in the present case, as this Court has made reference to Section 57 of the IPC, the petitioner would not even be entitled to seek premature release until completion of twenty years of imprisonment.

5.3. Learned Additional Advocate General would further contend that the reliance placed by the petitioner on the decision of the Hon'ble Supreme Court in **Sukhdev Yadav** is misplaced. In the said case, the Court had specifically fixed the sentence of life imprisonment to mean twenty years of actual imprisonment without remission, and it was on the basis of such a judicial determination that the Hon'ble Supreme Court held that the sentence stood completed upon the convict undergoing twenty years of actual imprisonment.

5.4. In the present case, however, the sentence imposed is simple life imprisonment without any judicial restriction limiting it to twenty years. Such a restriction cannot be read into the judgment merely by referring to Section 57



of the IPC. According to the learned Additional Advocate General, any such interpretation would be erroneous and would defeat the purpose of sentencing.

- 5.5. He would further submit that while considering questions relating to sentence and release, the Court must have regard not only to the rights of the convict, but also to the interests of the victim and the society at large. A sentence of life imprisonment must therefore be understood in its ordinary legal sense, namely, imprisonment for the remainder of the natural life of the convict, unless expressly limited by the Court.
- 5.6. Learned Additional Advocate General reiterates that Section 57 of the IPC merely provides that for the purpose of calculating fractions of terms of punishment, life imprisonment may be reckoned as equivalent to twenty years. The said provision does not determine the actual duration of a sentence of life imprisonment, nor does it mandate the release of a convict after completion of twenty years.
- 5.7. He further submits that the question of remission or premature release falls entirely



within the domain of the appropriate Government, in exercise of its powers under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 432 of the Code of Criminal Procedure). Therefore, Section 57 of the IPC cannot be invoked to restrict or alter the period of a sentence of life imprisonment.

- 5.8. He relies on the judgment of the Hon'ble Apex Court in the case of ***Gopal Vinayk Godse vs. State of Maharashtra and others***², more particularly Paras 8 and 9 which are reproduced hereunder for easy reference:

8. *Briefly stated the legal position is this: Before Act 26 of 1955 a sentence of transportation for life could be undergone by a prisoner by way of rigorous imprisonment for life in a designated prison in India. After the said Act, such a convict shall be dealt with in the same manner as one sentenced to rigorous imprisonment for the same term. Unless the said sentence is commuted or remitted by appropriate authority under the relevant provisions of the Indian Penal Code or the Code of Criminal Procedure, a prisoner sentenced to life imprisonment is bound in law to serve the life, term in prison. The rules framed under the Prisons Act enable such a prisoner to earn remissions- ordinary, special and State-and the said remissions will be given credit towards his term of imprisonment. For the purpose of working out the remissions the sentence of transportation for life is ordinarily equated with a definite period, but it is only for that particular purpose and not for any other purpose. As the sentence of transportation for life or its prison equivalent, the life imprisonment, is one of indefinite duration, the remissions so earned do not in practice help such a convict as it is not possible to predicate the time of his death. That is*

²1961 SCC OnLine SC 70



why the rules provide for a procedure to enable the appropriate Government to remit the sentence under Section 401 of the Code of Criminal Procedure on a consideration of the relevant factors, including the period of remissions earned. The question of remission is exclusively within the province of the appropriate Government; and in this case it is admitted that, though the appropriate Government made certain remissions under Section 401 of the Code of Criminal Procedure, it did not remit the entire sentence. We, therefore, hold that the petitioner has not yet acquired any right to release.

9. The petitioner made an impassioned appeal to us that if such a construction be accepted, he would be at the mercy of the appropriate Government and that the said Government, out of spite, might not remit the balance of his sentence, with the result that he would be deprived of the fruits of remissions earned by him for sustained good conduct, useful service and even donation of blood. The Constitution as well as the Code of Criminal Procedure confer the power to remit a sentence on the executive Government and it is in its exclusive province. We cannot assume that the appropriate Government will not exercise its jurisdiction in a reasonable manner.

5.9. By relying upon **Gopal Vinayak Godse**, learned Additional Advocate General submits that a sentence of life imprisonment ordinarily means imprisonment for the remainder of the natural life of the convict, unless the sentence is commuted or remitted by the appropriate Government in exercise of its statutory powers. He would further submit that the said judgment clearly lays down that the reference to twenty years in Section 57 of the IPC is only for the limited purpose of calculating fractions of terms of punishment, and cannot be construed as



fixing the duration of a sentence of life imprisonment at twenty years. Therefore, according to him, the petitioner cannot claim release merely on completion of twenty years of imprisonment.

5.10. He relies on the judgment of the Hon'ble Apex Court in the case of ***Mohinder Singh vs. State of Punjab***³, more particularly Paras 26 and 27, which are reproduced hereunder for easy reference:

26. Life imprisonment cannot be equivalent to imprisonment for 14 years or 20 years or even 30 years, rather it always means the whole natural life. This Court has always clarified that the punishment of a fixed term of imprisonment so awarded would be subject to any order passed in exercise of clemency powers of the President of India or the Governor of the State, as the case may be. Pardons, reprieves and remissions under Article 72 or Article 161 of the Constitution of India are granted in exercise of prerogative power. As observed in State of U.P. v. Sanjay Kumar [(2012) 8 SCC 537 : (2012) 3 SCC (Cri) 970] (SCC p. 546, para 24) there is no scope of judicial review of such orders except on very limited grounds such as the non-application of mind while passing the order, non-consideration of relevant material, or if the order suffers from arbitrariness. The power to grant pardons and to commute sentences is coupled with a duty to exercise the same fairly, reasonably and in terms of restrictions imposed in several provisions of the Code.

27. In order to check all arbitrary remissions, the Code itself provides several conditions. Sub-sections (2) to (5) of Section 432 of the Code lay down basic

³(2013) 3 SCC 294



*procedure for making an application to the appropriate Government for suspension or remission of sentence either by the convict or someone on his behalf. We are of the view that exercise of power by the appropriate Government under sub-section (1) of Section 432 of the Code cannot be suo motu for the simple reason that this is only an enabling provision and the same would be possible subject to fulfilment of certain conditions. Those conditions are mentioned either in the Jail Manual or in statutory rules. This Court in various decisions has held that the power of remission cannot be exercised arbitrarily. In other words, the decision to grant remission has to be well informed, reasonable and fair to all concerned. The statutory procedure laid down in Section 432 of the Code itself provides this check on the possible misuse of power by the appropriate Government. As rightly observed by this Court in *Sangeet v. State of Haryana* [(2013) 2 SCC 452 : (2012) 11 Scale 140] , there is a misconception that a prisoner serving life sentence has an indefeasible right to release on completion of either 14 years' or 20 years' imprisonment. A convict undergoing life imprisonment is expected to remain in custody till the end of his life, subject to any remission granted by the appropriate Government under Section 432 of the Code which in turn is subject to the procedural checks mentioned in the said provision and further substantive check in Section 433-A of the Code.*

5.11. By relying upon ***Mohinder Singh***, learned Additional Advocate General submits that the law is well settled that life imprisonment means imprisonment for the remainder of the natural life of the convict, unless the sentence is commuted or remitted by the appropriate Government in exercise of its statutory or constitutional powers. Therefore, according to



him, the petitioner cannot claim an automatic right of release merely on completion of twenty years of imprisonment.

5.12. He relies on the judgment of the Hon'ble Apex Court in the case of ***Life Convict Bangal @ Khoka @ Prasanta Sen vs. B.K.Srivastava and others***⁴, more particularly Para 17, which is reproduced hereunder for easy reference:

17. *The last decision which is directly on the point similar to the case on hand is Mohd. Munna v. Union of India [(2005) 7 SCC 417 : 2005 SCC (Cri) 1688] . The said case arose in a writ petition filed under Article 32 of the Constitution. According to the petitioner therein, the length of duration of imprisonment for life is equivalent to 20 years' imprisonment and that too subject to further remission admissible under law. It was further pointed out that on completion of this term, he was liable to be released under Rule 751(c) of the West Bengal Jail Code. The petitioner relied on the Explanation to Section 61 of the West Bengal Correctional Services Act, 1992 (West Bengal Act 32 of 1992) whereunder imprisonment for life is equated to a term of 20 years' imprisonment. As said earlier, it is a case identical to the case on hand. Here again, the Explanation to Section 61 of the West Bengal Act was pressed into service. After going into the very same provisions and considering the decision of the Privy Council in Kishori Lal case [(1944-45) 72 IA 1 : (1945) 58 LW 251 : AIR 1945 PC 64] as well as the decision of the Constitution Bench in Gopal Vinayak Godse case [AIR 1961 SC 600 : (1961) 1 Cri LJ 736] , this Court concluded thus: (Mohd. Munna case [(2005) 7 SCC 417 : 2005 SCC (Cri) 1688] , SCC pp. 425-27, paras 13-17)*

"13. The counsel contended that by virtue of Rule 751(c) of the West Bengal Jail Code, the petitioner

⁴(2013) 3 SCC 425



was liable to be released from jail on completion of twenty years. He also relied on the Explanation to Section 61 of the West Bengal Correctional Services Act, 1992 (W.B. Act 32 of 1992) wherein the imprisonment for life is equated to a term of twenty years' simple imprisonment for the purpose of remission. But there is no provision either in the Penal Code or in the Code of Criminal Procedure whereby life imprisonment could be treated as fourteen years or twenty years without there being a formal remission by the appropriate Government. Section 57 of the Penal Code reads as follows:

'57.Fractions of terms of punishment.—In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.'

The above section is applicable for the purpose of remission when the matter is considered by the Government under the appropriate provisions. This very plea was placed before the Judicial Committee of the Privy Council in Kishori Lal v. King Emperor [(1944-45) 72 IA 1 : (1945) 58 LW 251 : AIR 1945 PC 64] and the Privy Council held as under: (IA p. 10 : AIR p. 67)

'... Assuming that the sentence is to be regarded as one of twenty years, and subject to remission for good conduct, he had not earned remission sufficient to entitle him to discharge at the time of his application, and it was therefore rightly dismissed, but in saying this, Their Lordships are not to be taken as meaning that a life sentence must and in all cases be treated as one of not more than twenty years, or that the convict is necessarily entitled to remission.'

14. The Prisons Rules are made under the Prisons Act and the Prisons Act by itself does not confer any authority or power to commute or remit sentence. It only provides for the regulation of the prisons and for the terms of the prisoners confined therein. Therefore, the West Bengal Correctional Services Act or the West Bengal Jail Code do not confer any special right on the petitioner herein.

15. In Godse case [AIR 1961 SC 600 : (1961) 1 Cri LJ 736] , the Constitution Bench of this Court held that the sentence of imprisonment for life is not for



any definite period and the imprisonment for life must, prima facie, be treated as imprisonment for the whole of the remaining period of the convicted person's natural life. It was also held in AIR para 5 as follows: (AIR p. 603 : SCR pp. 444-45)

'5. ... It does not say that transportation for life shall be deemed to be transportation for twenty years for all purposes; nor does the amended section which substitutes the words "imprisonment for life" for "transportation for life" enable the drawing of any such all-embracing fiction. A sentence of transportation for life or imprisonment for life must prima facie be treated as transportation or imprisonment for the whole of the remaining period of the convicted person's natural life.'

16. Summarising the decision, it was held in AIR para 8 as under: (AIR pp. 603-04 : SCR p. 447)

'8. Briefly stated the legal position is this: Before Act 26 of 1955 a sentence of transportation for life could be undergone by a prisoner by way of rigorous imprisonment for life in a designated prison in India. After the said Act, such a convict shall be dealt with in the same manner as one sentenced to rigorous imprisonment for the same term. Unless the said sentence is commuted or remitted by appropriate authority under the relevant provisions of the Penal Code or the Code of Criminal Procedure, a prisoner sentenced to life imprisonment is bound in law to serve the life term in prison. The Rules framed under the Prisons Act enable such a prisoner to earn remissions—ordinary, special and State—and the said remissions will be given credit towards his term of imprisonment. For the purpose of working out the remissions the sentence of transportation for life is ordinarily equated with a definite period, but it is only for that particular purpose and not for any other purpose. As the sentence of transportation for life or its prison equivalent, the life imprisonment, is one of indefinite duration, the remissions so earned do not in practice help such a convict as it is not possible to predicate (sic predict) the time of his death. That is why the Rules provide for a procedure to enable the appropriate Government to remit the sentence under Section 401 of the Code of Criminal Procedure on a consideration of the relevant factors, including the period of remissions earned. The question of remission is exclusively within the



province of the appropriate Government; and in this case it is admitted that, though the appropriate Government made certain remissions under Section 401 of the Code of Criminal Procedure, it did not remit the entire sentence. We, therefore, hold that the petitioner has not yet acquired any right to release.'

We are bound by the above dicta laid down by the Constitution Bench and we hold that life imprisonment is not equivalent to imprisonment for fourteen years or for twenty years as contended by the petitioner.

17. Thus, all the contentions raised by the petitioner fail and the petitioner is not entitled to be released on any of the grounds urged in the writ petition so long as there is no order of remission passed by the appropriate Government in his favour. We make it clear that our decision need not be taken as expression of our view that the petitioner is not entitled to any remission at all. The appropriate Government would be at liberty to pass any appropriate order of remission in accordance with law."

5.13. By relying upon ***Bangal @ Khoka @ Prasanta Sen***, learned Additional Advocate General submits that the legal position is well settled that life imprisonment cannot be equated to a fixed term of fourteen or twenty years, and unless there is a specific judicial direction limiting the sentence or an order of remission by the appropriate Government, a convict undergoing life imprisonment cannot claim release merely on completion of twenty years of imprisonment



5.14. On the basis of the aforesaid judgments, learned Additional Advocate General submits that the decision of the Hon'ble Supreme Court in **Sukhdev Yadav** would have no application to the facts of the present case, as in that matter the sentence of life imprisonment had been specifically restricted by the Court to twenty years of actual imprisonment without remission.

5.15. In the present case, however, the sentence imposed upon the petitioner is simple life imprisonment without any judicial restriction limiting it to a fixed term. Therefore, according to him, the petitioner cannot claim an automatic right of release upon completion of twenty years of imprisonment.

5.16. He would further submit that the question of remission or premature release lies within the exclusive domain of the appropriate Government, to be considered in accordance with the applicable statutory provisions and policy. Consequently, there can be no question of directing the release of the petitioner merely on the basis that he has completed twenty



years of imprisonment, as contended on behalf of the petitioner.

6. Heard Sri.Pradeep Patil learned counsel for the petitioner and Sri.Pradeep C.S., AAG for respondents. Perused papers.
7. The points that would arise for consideration are:
 - (i) **Whether the judgment passed by this Court in Criminal Appeal No.1197/2008, while commuting the death sentence to life imprisonment and directing that the accused shall serve the sentence "in terms of Section 57 of the IPC", can be construed as restricting the sentence of life imprisonment to a fixed term of twenty years of imprisonment?**
 - (ii) **Whether the petitioner is entitled to claim release from prison merely on the ground that he has completed twenty years of imprisonment, by placing reliance on Section 57 of the Indian Penal Code and the judgment of the Hon'ble Supreme Court in Sukhdev Yadav @ Pehalwan vs. State (NCT of Delhi)?**
 - (iii) **Whether, in the absence of a specific judicial direction restricting the duration of the sentence, a sentence of life imprisonment must be understood as imprisonment for the remainder of the natural life of the convict, subject to**



commutation or remission in accordance with law?

- (iv) Whether the petitioner has any enforceable legal right to be released upon completion of twenty years of imprisonment, or whether the question of remission or premature release lies within the exclusive domain of the appropriate Government under the applicable statutory provisions and policy?
- (v) Whether the continued incarceration of the petitioner after completion of twenty years of imprisonment can be said to be illegal, so as to warrant the issuance of a writ of mandamus directing his release?
- (vi) What is the scope of interference by this Court under Articles 226 and 227 of the Constitution of India in matters relating to sentence remission, premature release and executive powers exercised by the appropriate Government?
- (vii) What Order

8. I answer the above points as follows

9. **Answer to Point No. (i):** Whether the judgment passed by this Court in Criminal Appeal No.1197/2008, while commuting the death sentence to life imprisonment and directing that the accused shall serve the sentence "in terms of Section 57 of the IPC", can be construed as restricting the sentence of life imprisonment to a fixed term of twenty years of imprisonment?



- 9.1. Sri. Pradeep Patil, learned counsel for the petitioner, submits that the petitioner was originally convicted and sentenced to death by the IV Additional City Civil and Sessions Court, Mayo Hall Unit, Bengaluru in SC No.463/2003, for offences punishable under Sections 302 and 364A of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'). He submits that on appeal, this Court in Criminal Appeal No.1197/2008, vide judgment dated 6.6.2013, commuted the death sentence to life imprisonment, while further directing that: (a) the accused 'shall not be given commutation after completion of fourteen years of imprisonment as a matter of routine'; and (b) 'the accused have to serve the life sentence and they should be in jail in terms of Section 57 of IPC.'
- 9.2. The learned counsel submits that the phrase 'in terms of Section 57 of IPC' is a judicial direction that restricts and defines the life sentence as a sentence of twenty years of actual imprisonment. He submits that Section 57 of the IPC equates imprisonment for life



with imprisonment for twenty years 'in calculating fractions of terms of punishment', and that when the Court expressly directed the accused to serve the sentence 'in terms of Section 57 of IPC', the Court judicially fixed the life sentence at twenty years — the equivalent period specified by Section 57.

9.3. The learned counsel places heavy reliance on the decision of the Hon'ble Supreme Court in **Sukhdev Yadav** and submits that the Hon'ble Supreme Court held that where a life sentence is expressed as being equivalent to twenty years of actual imprisonment, the sentence stands fully completed upon the convict undergoing twenty years, and the convict is entitled to be simply released from jail without any further application for remission to the Sentence Review Board.

9.4. Sri. Pradeep Patil submits that the petitioner has, as on 15.01.2025, completed twenty years of actual imprisonment with satisfactory conduct and no adverse report, as certified in the Imprisonment Certificate dated 15.01.2025. He submits that the sentence imposed by this



Court stands fully undergone, and the continued detention of the petitioner is illegal and unconstitutional, warranting the immediate issuance of a writ of mandamus directing his release.

- 9.5. He relies on Section 57 of the IPC, which reads: *'Fractions of terms of punishment.—In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.'* He submits that this provision, when read in conjunction with the judgment of this Court in Criminal Appeal No.1197/2008, means that the petitioner's sentence stands satisfied upon completion of twenty years, and that any further incarceration is illegal.
- 9.6. Sri. Pradeep C.S., learned Additional Advocate General (hereinafter 'AAG'), appearing along with Smt. K.P. Yashodha, learned Additional Government Advocate (hereinafter 'AGA'), submits that the interpretation placed by the petitioner on the operative portion of the judgment in Criminal Appeal No.1197/2008 is



wholly misconceived and contrary to well-settled law.

9.7. The learned AAG submits that the operative portion of Criminal Appeal No.1197/2008 does not fix or restrict the sentence of life imprisonment to twenty years. The substantive sentence awarded is 'life imprisonment', these are the exact words used. The subsequent direction 'in terms of Section 57 of IPC' is not a conversion of the life sentence into a fixed twenty-year sentence. It is, at most, a specification that the accused must undergo a minimum period of actual imprisonment equivalent to the period under Section 57 before any question of remission or commutation arises. The expression 'life sentence' remains the operative term.

9.8. The learned AAG submits that if this Court had intended to restrict the sentence of life imprisonment to twenty years of actual imprisonment, it would have done so in clear and express terms, as the High Court in **Sukhdev Yadav** did, using the formulation 'Life imprisonment which shall be 20 years of



actual imprisonment without consideration of remission.' No such language was used in Criminal Appeal No.1197/2008. In the absence of such specific language, the direction 'in terms of Section 57 of IPC' cannot be construed as having judicially fixed the sentence at twenty years.

9.9. The learned AAG relies on 'Gopal Vinayak Godse', a Constitution Bench decision of the Hon'ble Supreme Court which holds that the equating of life imprisonment with a definite period for the purpose of working out remissions is 'only for that particular purpose and not for any other purpose.' He submits that this binding Constitution Bench precedent settles the scope of Section 57 of the IPC and negates the petitioner's interpretation.

9.10. He also relies on '**Mohinder Singh**' and '**Bangal @ Khoka**', both of which conclusively hold that life imprisonment means the whole natural life and cannot be equated with a fixed term of fourteen or twenty years. He submits that the decision of the Hon'ble Supreme Court in **Sukhdev Yadav** is factually and legally



distinguishable, being premised on a specific and explicit judicial direction fixing the life sentence at twenty years, which is entirely absent in the judgment of this Court in Criminal Appeal No.1197/2008.

9.11. I have heard learned counsel for both parties with care and have perused the record, including the judgment in Criminal Appeal No.1197/2008, the relevant paragraphs of **Sukhdev Yadav**, the Constitution Bench decision in **Gopal Vinayak Godse**, and the decisions in **Mohinder Singh** and **Bangal @ Khoka**. The central question arising under Point (i) is one of pure construction: does the phrase 'in terms of Section 57 of IPC' in the judgment of Criminal Appeal No.1197/2008, read in its full context, amount to a judicial restriction of the life sentence to a fixed term of twenty years of imprisonment?

9.12. The operative portion of the judgment in Criminal Appeal No.1197/2008, dated 6.6.2013, reads: *'the death sentence is modified and accused nos.1 to 3 are sentenced to life imprisonment. It is further directed that*



accused nos.1 to 3 shall not be given commutation after completion of fourteen years of imprisonment as a matter of routine. The accused have to serve the life sentence and they should be in jail in terms of Section 57 of IPC.' This is the sentence imposed that must be interpreted.

9.13. The first and foundational observation is that the sentence imposed is expressed as 'life imprisonment' and then further and separately as 'the life sentence.' The Court used the term 'life sentence' as the substantive and governing term of the punishment. The sentence is not described as a sentence 'which shall be twenty years' or 'of twenty years of actual imprisonment.' The use of the term 'life sentence' as the operative description is of decisive significance.

9.14. The second observation is structural. The judgment in Criminal Appeal No.1197/2008 contains two distinct and sequential directions: Direction (A): The accused shall not be given commutation after completion of fourteen years of imprisonment as a matter of routine.



Direction (B): The accused have to serve the life sentence and they should be in jail in terms of Section 57 of IPC. These are two separate and complementary directions. Direction (A) deals with the period of fourteen years, prohibiting routine commutation at that stage. Direction (B) uses the expression 'life sentence' as the operative term and adds the Section 57 reference as the specification of the minimum period of actual imprisonment.

- 9.15. The combined reading of both Directions is this: (a) the accused must serve a life sentence; (b) they must be in jail, and their period of actual imprisonment for the purpose of Section 57 equivalent is twenty years, meaning twenty years is the minimum actual imprisonment before any question of remission or commutation can arise, replacing the otherwise applicable fourteen-year period under Section 433-A CrPC. This reading gives full effect to both directions and maintains internal consistency in the judgment. On the contrary, the petitioner's reading, that the life sentence was fixed at twenty years, would render Direction (A) redundant and unnecessary, since



if the sentence was fixed at twenty years, there would be no question of commutation even after fourteen years at all.

9.16. The rule against surplusage in statutory and judicial interpretation is well-established. Every word in a judgment or order is presumed to have been used deliberately and to carry meaning. Courts are not to be understood as having used words without purpose. If the petitioner's reading were accepted, Direction (A) would become meaningless, for why would a Court prohibit commutation after fourteen years if the sentence itself was fixed at twenty years and would automatically end at that point? This internal incongruity is sufficient to demolish the petitioner's interpretation.

9.17. I now turn to the decision in **Sukhdev Yadav**, upon which the petitioner strongly relies. In **Sukhdev Yadav**, the sentence imposed by the High Court was expressed in the following terms: 'Life imprisonment which shall be 20 years of actual imprisonment without consideration of remission, and fine of Rs.10,000/-.' The Hon'ble Supreme Court at



Para 15 of the said judgment analysed the word 'which' used after 'Life imprisonment' and held that it is 'an interrogative pronoun, related pronoun and determiner, referring to something previously mentioned when introducing a clause giving further information' that the sentence of life imprisonment is 'determined as twenty years which is of actual imprisonment.'

- 9.18. The critical and material distinction between **Sukhdev Yadav** and the present case is as follows. In **Sukhdev Yadav**, the High Court specifically used the formulation 'Life imprisonment which shall be 20 years of actual imprisonment', here, the word 'which' links 'Life imprisonment' directly and definitionally to '20 years of actual imprisonment,' converting the nature of the sentence from an indeterminate one to a determinate one. The sentence was fixed, not merely described. In the present case, no such definitional linkage exists. The words used are 'life sentence' and 'in terms of Section 57 of IPC', these are not words of definition but words of duration reference. The contrast is stark and unmistakable. **Sukhdev**



Yadav is, therefore, clearly distinguishable on the language and facts.

9.19. I shall now examine Section 57 of the IPC in detail. Section 57 reads: '*Fractions of terms of punishment.—In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.*' The marginal heading is '*Fractions of terms of punishment.*' The language of Section 57 is clear and its scope is expressly limited. It applies 'in calculating fractions of terms of punishment.' It does not say that life imprisonment shall be deemed to be twenty years for all purposes, or that a convict sentenced to life imprisonment shall be released after twenty years. It is a specific and limited provision for arithmetic calculation.

9.20. This limited scope of Section 57 of the IPC has been definitively established by the Hon'ble Supreme Court of India. In **Gopal Vinayak Godse** wherein the Hon'ble Constitution Bench held: '*For the purpose of working out the remissions the sentence of transportation for life is ordinarily equated with a definite period,*



but it is only for that particular purpose and not for any other purpose.' The Constitution Bench elaborated that the sentence of life imprisonment *'is one of indefinite duration, the remissions so earned do not in practice help such a convict as it is not possible to predicate the time of his death.'* This is a binding decision of a Constitution Bench. It cannot be departed from.

9.21. In **Mohinder Singh**, the Hon'ble Supreme Court reiterated, in unambiguous terms: *'Life imprisonment cannot be equivalent to imprisonment for 14 years or 20 years or even 30 years, rather it always means the whole natural life.'* This statement leaves no room for the contention that a reference to Section 57 of the IPC in a judgment, or that Section 57 itself, fixes the duration of life imprisonment at twenty years.

9.22. In **Bangal @ Khoka**, the Hon'ble Supreme Court, after a comprehensive survey of precedent, concluded: *'We are bound by the above dicta laid down by the Constitution Bench and we hold that life imprisonment is not*



equivalent to imprisonment for fourteen years or for twenty years as contended by the petitioner.' This Court is more bound by this dicta.

9.23. The submission of Sri. Pradeep Patil that Section 57 of the IPC operates as a sentence-defining provision, fixing life imprisonment at twenty years, is directly contrary to the consistent interpretation of the Hon'ble Supreme Court in **Gopal Vinayak Godse, Mohinder Singh and Bangal @ Khoka**. These decisions are binding on this Court. The argument must be and is rejected.

9.24. A contextual reading of the judgment in Criminal Appeal No.1197/2008 also supports the above interpretation. The case involved the gruesome murder of two innocent children. The original sentence was death. This Court found it was not the 'rarest of rare' case warranting death, but did not treat it as a routine case either. The judgment imposed a specific bar against routine commutation and directed service of the life sentence 'in terms of Section 57 of IPC.' These directions reflect this Court's



intention that the accused must serve a substantial minimum period before even being eligible for any remission consideration, they do not reflect an intention to cap the sentence at twenty years. Reading the directions as capping the sentence at twenty years would be wholly inconsistent with the gravity of the offence and the evident purpose of the directions.

9.25. For the foregoing reasons, I answer Point No. (i) by holding that the judgment passed by this Court in Criminal Appeal No.1197/2008, while commuting the death sentence to life imprisonment and directing that the accused shall serve the sentence 'in terms of Section 57 of the IPC', cannot be construed as restricting the sentence of life imprisonment to a fixed term of twenty years of imprisonment. The direction specifies the minimum period of actual imprisonment; it does not convert or fix the life sentence as a twenty-year sentence.

10. **Answer to Point No. (ii): Whether the petitioner is entitled to claim release from prison merely on the ground that he has completed twenty years of imprisonment, by placing reliance on Section 57 of the Indian Penal Code and the**



**judgment of the Hon'ble Supreme Court in
Sukhdev Yadav @ Pehalwan vs. State (NCT of
Delhi)?**

10.1. Sri. Pradeep Patil, learned counsel for the petitioner, submits that the petitioner has served twenty years of actual imprisonment as on 15.01.2025. He contends that upon completion of twenty years, the sentence imposed by this Court 'in terms of Section 57 of IPC' stands fully served, and the petitioner is entitled to be released forthwith, exactly as the Hon'ble Supreme Court directed in **Sukhdev Yadav**.

10.2. Learned counsel relies on Para 15.2 of Sukhdev Yadav, which holds that '*on completion of the twenty years of actual imprisonment, it is wholly unnecessary for the appellant to seek remission of his sentence on the premise that his sentence is a life imprisonment i.e. till the end of his natural life.*' He submits that this principle applies directly to the petitioner's case, since this Court's direction '*in terms of Section 57 of IPC*' is, according to him, identical in substance to the direction 'Life imprisonment which shall be 20 years' in **Sukhdev Yadav**.



- 10.3. He submits that any other interpretation would require the petitioner to make an application for remission before the Sentence Review Board, which would be unreasonable and contrary to the spirit of the judgment in Criminal Appeal No.1197/2008. Since the sentence has been served, the question of remission simply does not arise.
- 10.4. Sri. Pradeep C.S., learned AAG, submits that the petitioner is not entitled to claim automatic release upon completion of twenty years. He submits that Section 57 of the IPC is not a provision that mandates the release of a life convict after twenty years. Its operation is confined to calculating fractions of punishment. This limited purpose of Section 57 is established by the Constitution Bench in **Gopal Vinayak Godse** and confirmed in **Mohinder Singh** and **Bangal @ Khoka**.
- 10.5. The learned AAG submits that the reliance placed by the petitioner on **Sukhdev Yadav** is misplaced, as already submitted under Point (i). He reiterates that **Sukhdev Yadav** is based entirely on the specific language used by the



High Court in that case, '*Life imprisonment which shall be 20 years of actual imprisonment without consideration of remission*' which is materially different from the language used in Criminal Appeal No.1197/2008. The ratio of Sukhdev Yadav cannot be imported into the present case by a strained reading of the direction '*in terms of Section 57 of IPC.*'

- 10.6. The learned AAG submits that the question of premature release lies within the exclusive domain of the appropriate Government under Section 432/433-A CrPC (now Sections 473/474 BNSS). In the absence of an order of remission by the appropriate Government, the petitioner has no legal right to release, and no writ of mandamus can be issued.
- 10.7. Under Point (ii), I must determine whether the petitioner is entitled to claim release merely on the ground of completion of twenty years of imprisonment, relying on Section 57 of the IPC and **Sukhdev Yadav**. The analysis must proceed on the foundation already laid under Point (i), namely, that the judgment in Criminal



Appeal No.1197/2008 did not fix the life sentence at twenty years.

10.8. Section 57 of the IPC must be analysed first. The provision reads: *'Fractions of terms of punishment.—In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.'* The marginal note — 'Fractions of terms of punishment' — is the key to the purpose of the provision. It applies only when fractions of terms of punishment are required to be calculated, typically for the purpose of computing remissions admissible under the prison rules or the relevant statutory provisions. It does not operate as a provision determining when a life sentence stands completed.

10.9. The Constitution Bench in **Gopal Vinayak Godse** (Para 8) specifically addressed this. The Court referred to the practice of equating the life sentence with a definite period 'for the purpose of working out the remissions' and held that such equating is 'only for that particular purpose and not for any other



purpose.' This restriction is plain: Section 57 operates only for calculating remissions and fractions; it does not determine the actual duration of the sentence. Reliance on Section 57 to claim that the sentence has been completed upon serving twenty years is, therefore, contrary to this binding Constitution Bench decision.

10.10. Para 9 of Gopal Vinayak Godse is also instructive. The petitioner therein made an 'impassioned appeal' contending that if a life sentence means imprisonment for the whole natural life, he would be 'at the mercy of the appropriate Government' which 'out of spite, might not remit the balance of his sentence.' The Constitution Bench acknowledged this concern but held: 'The Constitution as well as the Code of Criminal Procedure confer the power to remit a sentence on the executive Government and it is in its exclusive province. We cannot assume that the appropriate Government will not exercise its jurisdiction in a reasonable manner.' This reasoning applies with equal force in the present case.



10.11. In **Mohinder Singh** (Para 27), the Hon'ble Supreme Court specifically addressed and rejected the claim of a convict serving life imprisonment to 'indefeasible right to release on completion of either 14 years or 20 years imprisonment.' The Court stated clearly: 'A convict undergoing life imprisonment is expected to remain in custody till the end of his life, subject to any remission granted by the appropriate Government under Section 432 of the Code.' The expectation of natural-life imprisonment, subject only to executive remission, is the settled legal position. No amount of reliance on Section 57 of the IPC alters this.

10.12. In **Bangal @ Khoka** (Para 17), the Hon'ble Supreme Court, applying the ratio of **Gopal Vinayak Godse** and **Mohd. Munna**, categorically rejected a similar claim and held: 'We hold that life imprisonment is not equivalent to imprisonment for fourteen years or for twenty years as contended by the petitioner.' The petitioner therein was not entitled to be released 'on any of the grounds urged in the writ petition so long as there is no



order of remission passed by the appropriate Government in his favour.'

10.13. On the reliance placed on Sukhdev Yadav, I have already held, under Point (i), that the said decision is factually distinguishable. In **Sukhdev Yadav**, the sentence was definitionally fixed at 'Life imprisonment which shall be 20 years of actual imprisonment without consideration of remission.' The completion of twenty years in that case was the completion of a judicially-fixed sentence. In the present case, no such judicially-fixed sentence exists. The petitioner has completed twenty years of imprisonment pursuant to a continuing life sentence, he has not completed the sentence. The ratio of **Sukhdev Yadav** has, therefore, no application.

10.14. Para 15.2 of Sukhdev Yadav, which the petitioner particularly relies upon, must be read in context. The Hon'ble Supreme Court was addressing the specific situation where the sentence had already been judicially fixed at twenty years of actual imprisonment and the convict had completed those twenty years. The



observation that 'it is wholly unnecessary for the appellant to seek remission' was made because the sentence had been completed by judicial design. The same observation cannot be transplanted into a case where the sentence is a continuing life sentence and has not been fixed at twenty years.

10.15. Accordingly, I answer Point No. (ii) by holding that the petitioner is not entitled to claim release from prison merely on the ground that he has completed twenty years of imprisonment. Section 57 of the IPC does not mandate or authorise release after twenty years; the decision in **Sukhdev Yadav** is distinguishable and not applicable to the facts of this case; and the three binding decisions of the Hon'ble Supreme Court in **Gopal Vinayak Godse, Mohinder Singh** and **Bangal @ Khoka**, conclusively negate such a claim.

11. **Answer to Point No. (iii): Whether, in the absence of a specific judicial direction restricting the duration of the sentence, a sentence of life imprisonment must be understood as imprisonment for the remainder of the natural life of the convict, subject to**



commutation or remission in accordance with law?

- 11.1. Sri. Pradeep Patil, learned counsel for the petitioner, does not directly contend that the general principle, life imprisonment means imprisonment for remainder of natural life, is incorrect. His contention is that in the present case, this Court has given a specific judicial direction (viz., the direction 'in terms of Section 57 of IPC') that restricts and fixes the duration of the sentence. He submits that this specific judicial direction takes the case outside the scope of the general principle, making it governed by the **Sukhdev Yadav** principle instead.
- 11.2. He submits that **Sukhdev Yadav** itself recognises that courts have the power to fix the duration of a life sentence at a specific term, and that where such a direction exists, the general principle does not apply. He argues that this Court's judgment in Criminal Appeal No.1197/2008 contains such a direction.
- 11.3. Sri. Pradeep C.S., learned AAG, submits that in the absence of a specific judicial direction



restricting the duration of a life sentence to a fixed term, the sentence must be understood, in accordance with well-settled law, as imprisonment for the remainder of the natural life of the convict. He submits that this principle is established by the Constitution Bench in **Gopal Vinayak Godse**, reaffirmed by the Hon'ble Supreme Court in **Mohinder Singh** and **Bangal@ Khoka**, and is not departed from in **Sukhdev Yadav**. He submits that in the present case, there is no specific judicial direction fixing the sentence at twenty years. The general principle therefore applies, and the sentence is imprisonment for the remainder of natural life.

- 11.4. Point (iii) raises a question of general legal principle that has a direct bearing on the outcome of this case. The question: must a sentence of life imprisonment, in the absence of a specific judicial direction restricting its duration, be understood as imprisonment for the remainder of the natural life of the convict?
- 11.5. The answer is provided by a long, consistent and unbroken line of decisions of the Hon'ble



Supreme Court of India. The Constitution Bench in **Gopal Vinayak Godse** (Para 8) declared: '*A sentence of transportation for life or imprisonment for life must prima facie be treated as transportation or imprisonment for the whole of the remaining period of the convicted person's natural life.*' The use of the phrase 'must prima facie be treated' establishes this as the default rule — the starting point of any analysis of life imprisonment.

- 11.6. The qualification 'unless the said sentence is commuted or remitted by appropriate authority' in **Gopal Vinayak Godse** identifies the only legitimate routes by which the sentence may end before the natural death of the convict: (a) commutation or remission by the appropriate Government under the CrPC (now BNSS); (b) commutation or remission by the President of India or the Governor of the State in exercise of the prerogative powers under Articles 72 and 161 of the Constitution of India respectively; or (c) a specific judicial direction fixing the sentence at a definite term (as discussed in **Sukhdev Yadav**). In the absence of any of



these routes, the sentence continues for the remainder of the convict's natural life.

11.7. In **Mohinder Singh** (Paras 26 and 27), the Hon'ble Supreme Court reaffirmed this principle: 'Life imprisonment cannot be equivalent to imprisonment for 14 years or 20 years or even 30 years, rather it always means the whole natural life.' The Hon'ble Supreme Court also explained the constitutional scheme: pardons and remissions under Articles 72 and 161 of the Constitution are prerogative powers of the executive, subject to limited judicial review. The power of remission under Section 432 CrPC is also vested in the executive. The power of courts is to impose sentence; the power to subsequently alter or remit the sentence (except in specific circumstances) lies with the executive.

11.8. In **Bangal @ Khoka** (Para 17), the principle was restated with the same clarity: 'life imprisonment is not equivalent to imprisonment for fourteen years or for twenty years.' The Hon'ble Supreme Court clarified that the petitioner therein would not be entitled to



release 'so long as there is no order of remission passed by the appropriate Government in his favour.'

11.9. It is also appropriate to note Article 21 of the Constitution of India, which guarantees that no person shall be deprived of his life or personal liberty except according to procedure established by law. The continued incarceration of the petitioner pursuant to a valid sentence of life imprisonment is in full conformity with Article 21 — it is deprivation of liberty according to a procedure established by law, namely, the procedure of conviction and sentencing under the IPC and CrPC by a competent court. The general principle that life imprisonment means imprisonment for the whole natural life is, therefore, constitutionally valid and cannot be challenged on the ground of violation of Article 21.

11.10. Regarding the petitioner's contention that this case falls outside the general principle by virtue of a specific judicial direction (the direction 'in terms of Section 57 of IPC'), this Court has already held under Point (i) that the said



direction does not restrict or fix the duration of the sentence at twenty years. The specific judicial direction exception recognised in **Sukhdev Yadav** (and discussed in the context of sentences specifically worded as 'Life imprisonment which shall be 20 years of actual imprisonment') does not apply in the absence of such specific language. The general principle therefore operates in full force in the present case.

11.11. Accordingly, I answer Point no. (iii) by holding that in the absence of a specific judicial direction restricting the duration of the sentence, the sentence of life imprisonment imposed on the petitioner must be understood as imprisonment for the remainder of his natural life, subject to commutation or remission in accordance with law.

12. **Answer to Point No. (iv): Whether the petitioner has any enforceable legal right to be released upon completion of twenty years of imprisonment, or whether the question of remission or premature release lies within the exclusive domain of the appropriate Government under the applicable statutory provisions and policy?**



- 12.1. Sri. Pradeep Patil, learned counsel for the petitioner, submits that the petitioner has an enforceable legal right to be released upon completion of twenty years of imprisonment. He submits that this right flows from the judicial direction in Criminal Appeal No.1197/2008, read in conjunction with Section 57 of the IPC and the principle in **Sukhdev Yadav**. He submits that the right to release upon completion of the judicially-fixed period is a judicial right, not merely an executive favour. It is not a matter of remission or executive discretion; it is a matter of the sentence having been completed.
- 12.2. Sri. Pradeep C.S., learned AAG, submits that the petitioner has no enforceable legal right to automatic release upon completion of twenty years. He submits that the power of remission and premature release is vested exclusively in the appropriate Government under Section 432 of the CrPC (now Section 473 of the BNSS), subject to the constraints of Section 433-A CrPC (now Section 474 BNSS). He extracts and relies upon these provisions.



- 12.3. Section 473(1) of the BNSS (corresponding to Section 432(1) CrPC) reads: *'When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.'*
- 12.4. The use of the word 'may' in Section 473(1) of the BNSS makes the exercise of the power purely discretionary with the appropriate Government. The convict does not have an automatic or absolute right to remission or release.
- 12.5. The learned AAG relies on Para 27 of **Mohinder Singh**, which states: 'there is a misconception that a prisoner serving life sentence has an indefeasible right to release on completion of either 14 years or 20 years imprisonment.' He submits that the present case involves precisely this misconception being raised by the petitioner. He submits that the Sentence Review Board, when it considers any



application for premature release, must do so in accordance with the applicable policy and the statutory provisions, and the Court cannot preempt or substitute that exercise of discretion.

12.6. Point (iv) requires this Court to determine whether the petitioner has an enforceable legal right to automatic release upon completion of twenty years, or whether the question of premature release lies within the exclusive domain of the appropriate Government.

12.7. As held under Points (i), (ii) and (iii), the petitioner has no enforceable legal right to automatic release, because: (a) the sentence imposed is life imprisonment and not a twenty-year sentence (Point i); (b) Section 57 of the IPC does not mandate release after twenty years (Point ii); and (c) life imprisonment means imprisonment for the remainder of natural life (Point iii). These three findings collectively and conclusively exclude the existence of an enforceable legal right to automatic release.

12.8. The statutory scheme governing remission and premature release of life convicts is Sections



432, 433 and 433-A of the CrPC (now Sections 473, 474 and 475 of the BNSS). The scheme is as follows: Section 432/473 BNSS vests in the appropriate Government the discretionary power to suspend or remit the sentence, at any time, with or without conditions. Section 433/474 BNSS vests in the appropriate Government the power to commute life imprisonment to rigorous or simple imprisonment for a term not exceeding fourteen years. Section 433-A/474 BNSS imposes a restriction: where a sentence of imprisonment for life has been imposed on conviction for an offence for which death is one of the punishments provided by law, the appropriate Government shall not exercise its powers of release or commutation unless the person has served at least fourteen years of imprisonment.

- 12.9. In the present case, the original conviction was under Sections 302 and 364A IPC, both of which provide for death as one of the punishments. Therefore, Section 433-A CrPC / Section 474 BNSS applies, and the minimum period of actual imprisonment before remission



can even be considered is fourteen years. However, as held, this Court in Criminal Appeal No.1197/2008 modified this threshold to twenty years by its direction 'in terms of Section 57 of IPC.' Thus, the petitioner was not eligible for even consideration of remission until he had served twenty years of actual imprisonment.

12.10. Having now served twenty years, the threshold for eligibility to apply for remission has been crossed. The petitioner has crossed from ineligibility to eligibility. He is now eligible to make an application for premature release or remission to the appropriate Government. However, eligibility to apply is different from having an enforceable legal right to be released. The appropriate Government must still consider the application on its merits, in accordance with applicable policy, taking into account all relevant factors. The decision whether to remit the sentence or grant premature release remains with the appropriate Government.



12.11. The power of remission is constitutionally and statutorily vested in the executive. It is a power coupled with a duty to exercise it fairly and reasonably, as held by the Hon'ble Supreme Court in **Mohinder Singh** (Para 27). The Court can ensure that this power is exercised fairly, reasonably and in accordance with law, but it cannot itself exercise the power by directing the release of the convict. This distinction, between ensuring fair exercise of the power and exercising the power itself, is the constitutional boundary between the judiciary and the executive.

12.12. Accordingly, I answer Point No. (iv) by holding that: (a) The petitioner has no enforceable legal right to automatic release upon completion of twenty years of imprisonment. (b) The question of remission or premature release lies within the exclusive domain of the appropriate Government under the applicable statutory provisions and policy. (c) The petitioner, having crossed the minimum threshold of twenty years of actual imprisonment, is now eligible to apply for premature release/remission to the appropriate



Government, which shall consider such application on its merits in accordance with applicable law and policy.

13. **Answer to Point No. (v): Whether the continued incarceration of the petitioner after completion of twenty years of imprisonment can be said to be illegal, so as to warrant the issuance of a writ of mandamus directing his release?**

13.1. Sri. Pradeep Patil, learned counsel for the petitioner, submits that the continued incarceration of the petitioner after completion of twenty years of actual imprisonment is illegal and unconstitutional. He draws the Court's attention to Para 15.4 of **Sukhdev Yadav**, where the Hon'ble Supreme Court held: 'There cannot be any further incarceration of the appellant herein from 09.03.2025 onwards... the continuous incarceration of the appellant from 09.03.2025 onwards was illegal.' He submits that the same logic applies to the petitioner, since he has completed twenty years and the sentence was specified 'in terms of Section 57 of IPC', the continued detention post completion of twenty years is illegal.



- 13.2. Learned counsel submits that since the detention is illegal, the writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India is directly attracted, and a writ of mandamus must issue directing the third respondent to release the petitioner forthwith. He relies on the well-established principle that a writ of habeas corpus or mandamus may be issued when a person is detained without lawful authority.
- 13.3. Sri. Pradeep C.S., learned AAG, submits that the continued incarceration of the petitioner is not illegal. The petitioner is detained pursuant to a valid warrant of commitment issued by a competent court, pursuant to a valid and subsisting sentence of life imprisonment. Since the sentence of life imprisonment has not been completed, commuted, or remitted, the continued detention is entirely lawful. The analogy with **Sukhdev Yadav** is misconceived, as in that case the sentence had been specifically fixed at twenty years and had been fully undergone. No such completion of sentence has occurred in the present case.



- 13.4. The learned AAG submits that a writ of mandamus can be issued only to compel the performance of a mandatory public duty. In the present case, there is no mandatory duty on the third respondent to release the petitioner. The duty of the third respondent is to hold the petitioner in custody pursuant to the valid warrant of commitment, and that duty is being lawfully performed. No writ of mandamus, therefore, can or should issue.
- 13.5. Point (v) requires determination of whether the continued incarceration is illegal. The answer to this question flows from the answers already given to Points (i) through (iv).
- 13.6. A detention is illegal when it lacks legal authority, when there is no valid court order or warrant authorising the detention, or when the sentence pursuant to which the detention is maintained has been fully undergone, or when the detention violates a constitutional or statutory provision. None of these conditions is satisfied in the present case. The petitioner is detained pursuant to a valid warrant of commitment, pursuant to a valid and subsisting



sentence of life imprisonment passed by a competent court and affirmed in Criminal Appeal No.1197/2008. The sentence has not been completed, commuted, or remitted. The detention is therefore lawful.

- 13.7. The reliance placed by the learned counsel on Para 15.4 of **Sukhdev Yadav** is specifically and expressly addressed and rejected for the reasons elaborately discussed under Points (i) and (ii). In **Sukhdev Yadav**, the sentence had been fixed at twenty years of actual imprisonment by a specific judicial direction, and the convict had completed that twenty-year sentence. The continued incarceration after the sentence was specifically and judicially fixed at twenty years and fully undergone, that was held to be illegal. In the present case, no such twenty-year sentence was fixed. The sentence is a continuing life sentence. The twenty years served are part of the sentence but do not constitute the whole sentence. Therefore, the continued incarceration is not illegal.



- 13.8. For a writ of mandamus to issue, the petitioner must demonstrate: (a) a clear legal right to the performance of a specific act; and (b) a corresponding legal duty in the respondent to perform that act; and (c) the respondent's failure to perform that duty. As held under Point (iv), the petitioner has no enforceable legal right to automatic release upon completion of twenty years. Since the first prerequisite legal right is not established, the foundation for a writ of mandamus is absent. The writ cannot issue.
- 13.9. It must also be noted that issuing a writ of mandamus directing the release of a convict whose sentence is validly subsisting would, in substance and effect, amount to this Court exercising the power of remission and commutation, a power vested by the Constitution and the statutes in the executive Government and not in the judiciary. Such an exercise would be ultra vires the jurisdiction of this Court in writ proceedings. This Court has no power to direct the release of a life convict by assuming to itself the power of remission that belongs to the appropriate Government.



- 13.10. This Court is also guided by the principle of judicial restraint in matters of criminal sentencing and execution of sentences. The Court's role, in the context of writ jurisdiction, is to ensure that the law is applied correctly and that fundamental rights are protected, not to substitute its discretion for that of the sentencing court or the executive. As long as the detention is pursuant to a valid sentence and the prisoner's fundamental rights are not violated, this Court does not interfere with the continued execution of the sentence.
- 13.11. For the above reasons, I answer point No. (v) by holding that the continued incarceration of the petitioner after completion of twenty years of imprisonment is not illegal, and that no writ of mandamus can be issued directing his release.
14. **Answer to Point No. (vi): What is the scope of interference by this Court under Articles 226 and 227 of the Constitution of India in matters relating to sentence remission, premature release and executive powers exercised by the appropriate Government?**



- 14.1. Sri. Pradeep Patil, learned counsel for the petitioner, submits that this Court has full and ample jurisdiction under Articles 226 and 227 of the Constitution of India to examine the legality of the petitioner's detention and to issue appropriate directions. He submits that the question before the Court is not one of remission or executive discretion, it is a question of interpreting a judicial direction and enforcing the legal right flowing from it. He submits that this question is squarely within the writ jurisdiction of this Court.
- 14.2. He submits that where a Court has given a direction, whether expressly or by implication, for release upon completion of a specific period, the enforcement of that direction is a judicial function, not an executive one. The present case, according to him, involves enforcing such a direction.
- 14.3. Sri. Pradeep C.S., learned AAG, submits that while the High Court's writ jurisdiction under Articles 226 and 227 is wide, it is not unlimited. In matters of sentence remission and premature release, the Court's jurisdiction is



supervisory and review-based, the Court can ensure that the appropriate Government acts in accordance with law, but cannot itself exercise the executive power of remission or substitute its judgment for that of the appropriate Government in deciding whether a convict should be released.

- 14.4. He submits that in the present case, there has been no application for remission before the appropriate Government, no order on such application, and no illegality in the continued detention. In such circumstances, there is nothing for this Court's writ jurisdiction to act upon.
- 14.5. The scope of this Court's writ jurisdiction under Articles 226 and 227 of the Constitution of India is unquestionably wide. Article 226 empowers this Court to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, to any person or authority including the Government, for the enforcement of fundamental rights and for any other purpose. Article 227 vests in this Court the



power of superintendence over all courts and tribunals within its territorial jurisdiction.

14.6. However, the breadth of Article 226 jurisdiction does not mean that this Court is entitled to exercise all governmental powers. The Constitution carefully distributes power among the three branches of government, and the courts are required to act within the domain assigned to them. In matters of criminal sentences, the execution and modification of sentences are matters governed by statute, and the power to remit or commute sentences is specifically and exclusively vested in the appropriate Government or the President/Governor under Articles 72/161. This Court, in exercise of its writ jurisdiction, cannot arrogate to itself the power of remission.

14.7. In the context of the present case and matters of this nature, this Court's writ jurisdiction extends to the following permissible forms of interference: (i) examining whether the continued detention of the convict is pursuant to a valid court order, if not, a writ of habeas corpus may issue; (ii) examining whether the



appropriate Government has failed or refused to consider an application for remission in accordance with statutory procedure, if so, a mandamus may issue directing consideration of the application; (iii) examining whether an order of the appropriate Government on a remission application is arbitrary, mala fide, or vitiated by non-application of mind, if so, the order may be quashed and fresh consideration directed; (iv) giving effect to the completion of a judicially-fixed sentence by directing release, as was done in **Sukhdev Yadav**.

- 14.8. In the present case, this Court has already held that: (a) the continued detention is pursuant to a valid life sentence (so no habeas corpus issue); (b) there is no application for remission before the appropriate Government (so no question of the Government having failed to consider); (c) no order of remission has been passed by the appropriate Government (so no question of quashing); and (d) the sentence is not a judicially-fixed twenty-year sentence (so **Sukhdev Yadav** category does not apply). None of the permissible forms of writ intervention is attracted in the present case.



14.9. This Court, however, does take note of the direction of the Hon'ble Supreme Court in Para 16 of Sukhdev Yadav, which directed a circulation to all Home Secretaries of States and Union Territories to ascertain whether any convict has remained in jail beyond the period of his sentence. This direction was in the context of cases where sentences had been specifically fixed by judicial direction. For cases like the present, where the sentence is a continuing life sentence, the appropriate Government's power of remission under Section 473/474 BNSS is the prescribed mechanism for any early release.

14.10. The scope of this Court's jurisdiction in the present case is, therefore: (a) to examine and confirm the legality of the detention (b) to clarify the legal position regarding the petitioner's eligibility to apply for premature release; and (c) to direct that if an application for premature release is made by the petitioner, the appropriate Government shall consider it on its merits within a reasonable time, without being bound by the direction against 'routine commutation at fourteen years'



(which direction has been rendered spent by the passage of twenty years). This Court cannot, in exercise of its writ jurisdiction, direct the automatic release of the petitioner.

15. Answer to Point No. (vii): What Order?

- 15.1. Having answered all Points for Determination, this Court must now determine the appropriate order to be passed in this writ petition. The findings on all six preceding Points, taken together, clearly indicate that the primary prayer, for a writ of mandamus directing the immediate release of the petitioner, cannot be granted.
- 15.2. This Court has held that: (a) the life sentence was not fixed at twenty years; (b) Section 57 IPC does not mandate release after twenty years; (c) life imprisonment means imprisonment for the remainder of natural life; (d) there is no enforceable legal right to automatic release; (e) the continued incarceration is not illegal; and (f) this Court's writ jurisdiction does not extend to directing release in these circumstances.



15.3. In the result and for the foregoing reasons, I pass the following

ORDER

- (i) The writ petition is **DISMISSED**.
- (ii) The prayer for a writ of mandamus directing Respondent No.3 to release the petitioner from prison forthwith is **REJECTED**.
- (iii) It is clarified that the direction in the judgment of this Court in Criminal Appeal No.1197/2008, that the accused shall serve the sentence 'in terms of Section 57 of IPC', does not restrict the sentence of life imprisonment to a period of twenty years. The sentence of life imprisonment imposed on the petitioner is a sentence for the remainder of his natural life, and remains so unless commuted or remitted by the appropriate Government or the President/Governor in accordance with law.
- (iv) The petitioner, having served twenty years of actual imprisonment as stipulated in the judgment of this Court in Criminal Appeal No.1197/2008, has crossed the minimum



threshold specified by this Court for eligibility for remission consideration. He is accordingly entitled to submit an application for premature release or remission to the appropriate authority in accordance with applicable statutory provisions and the State's remission policy.

- (v) If and when such application is made, the appropriate Government/Sentence Review Board shall: (i) consider the same on its individual and case-specific merits; (ii) take into account all relevant factors including the period of actual imprisonment, the conduct of the petitioner, the nature of the offence, the interests of the victims, and the applicable policy; (iii) not treat the direction against 'routine commutation after completion of fourteen years' in Criminal Appeal No.1197/2008 as an absolute bar to consideration of any application made after completion of twenty years; and (iv) pass a reasoned order thereon within ninety (90) days of receipt of the application.



NC: 2026:KHC:15413
WP No. 25250 of 2025

- (vi) Nothing in this judgment constitutes or shall be construed as an expression of opinion that the petitioner's application for premature release, if made, ought to be or shall be granted. The decision on any such application remains entirely within the domain of the appropriate Government.
- (vii) Pending applications, if any, stand dismissed.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

Prs
List No.: 19 Sl No.: 2