



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. _____ OF 2026
(ARISING OUT OF S.L.P. (CRL.) DIARY NO.28783 OF 2023)

SURENDRA @ SUNDA

... APPELLANT (S)

versus

THE STATE OF UTTAR PRADESH

... RESPONDENT(S)

O R D E R

1. Leave granted.
2. The instant Criminal Appeal was brought to challenge the order¹ of the Allahabad High Court (hereinafter referred to as “**High Court**”) confirming the conviction for the charge under Section 302 read with Sections 149 and 148 of the Indian Penal Code, 1860 (hereinafter referred to as “**IPC**”) and sentence of life imprisonment awarded to the appellant.
3. On 13.08.2024, when the appeal came up for hearing, it was informed that the appellant was released on bail in furtherance to the order dated 15.3.2024 passed by the Chief Judicial Magistrate,

¹ Order dated 13.09.2018 passed in Criminal Appeal No.370 of 1983.

Mathura. The order passed by the Chief Judicial Magistrate was in pursuance of the order dated 10.1.2024 of the High Court in Criminal Appeal No. 165 of 2016, titled **Ganesh vs. State of U.P.** The High Court in the said order had directed to release the convicts on bail in case their applications for premature release were kept pending for more than six months. It is not out of place to mention that the direction as issued in the **Ganesh** (Supra) was not related to the case of the appellant and the sentence served by the appellant till the date of his release was only two years and five months. After taking cognizance of these facts, explanation was sought vide orders dated 13.08.2024 and 03.09.2024 passed in the proceedings of this case that once the criminal appeal referred above is of different person in a different case, how the Chief Judicial Magistrate could have released the accused without any order of the Court in the appellant's case.

4. It was informed in the State's affidavit dated 06.09.2024 that the full Bench of the High Court's Lucknow bench had taken cognizance of the correctness of the directions issued in **Ganesh** (Supra), and therefore, in the case of **Ambrish Kumar Verma vs. State of Uttar Pradesh** (Criminal Misc. Writ Petition No. 1915 of 2024), after considering the same, it was held that the power of

remission is only retained by the appropriate authority. The Division Bench could not have issued any general direction to the Chief Judicial Magistrates for releasing the convicts on bail without any orders passed in the pending appeals of such convicts before the High Court or by the Competent Courts. In the interregnum, however, prior to the judgment of the Full Bench in **Ambrish Kumar** (Supra), many convicts were released on bail in furtherance to the directions in **Ganesh** (Supra) by the respective Chief Judicial Magistrates. Since direction to take back the accused into custody was not issued by the Full Bench in **Ambrish Kumar** (Supra) and the order of **Ganesh** (Supra) though not found as good law, however, the position was required to be reversed by the High Court itself.

5. In the above conspectus, and with an intent to give effect to the Full Bench judgment in **Ambrish Kumar** (Supra), this Court, *vide* a detailed order dated 09.09.2024 directed the appellant to surrender, and sought the information from the State of Uttar Pradesh as under:

“11. Looking to the gravity of the matter, we must also seek a detailed affidavit from the Principal Secretary (Home) and Principal Secretary (Prisons) of the State of Uttar Pradesh on the following:

- a. *How the Jail Authorities could recommend the case of the Petitioner for remission without compliance of the State's remission policy which mandates 14 years minimum imprisonment for a life convict to be considered for remission, since he had only served a period of 2 years 5 months of imprisonment?*
- b. *After the decision of the Full Bench in **Ambarish** (Supra) setting aside directions issued in **Ganesh** (Supra), whether the Petitioner has been taken back in custody? If not, whether any steps have been taken by the State of Uttar Pradesh in that regard?*
- c. *How many convicts have been taken back in custody after the aforesaid directions were set aside by the Full Bench?*
- d. *Whether these convicts were eligible for premature release as per State Remission Policy? If not, how were their names recommended for remission / premature release by the concerned Jail Authorities?*
- e. *Whether their application for remission of the aforementioned convicts was pending on the date of their release on interim bail?"*

6. The State filed an affidavit dated 08.11.2024 in compliance of the order dated 09.09.2024. It was explained by the State that pursuant to the directions in **Ganesh** (Supra), a list of prisoners whose early release applications were pending for more than 6 months was forwarded to the respective Chief Judicial Magistrates by the Secretary of the District Legal Services Authority. Pursuant thereto, 158 prisoners were released by orders of the concerned Chief Judicial Magistrates since their applications for early release were pending for more than 6 months. Out of the 158 prisoners, 10 prisoners' application for early release was accepted under

various policies applicable in the State of Uttar Pradesh and arrest warrants had been issued against 56 prisoners, out of which 25 prisoners were re-arrested and 31 prisoners are yet to be re-arrested. Applications for re-arrest of the rest of the 92 prisoners had been forwarded to the Chief Judicial Magistrates concerned. Out of these 158 prisoners, there were 21 prisoners including the appellant herein who had not completed 14 years of imprisonment which is a requirement for premature release under the Uttar Pradesh Prisoners Release on Probation Act, 1938 or in policy and 16 such prisoners had been re-arrested and warrants had been issued against 5 convicts.

7. In the aforesaid affidavit dated 08.11.2024, it was also informed by the State that there are five mechanisms for early release in the State of Uttar Pradesh, which are as follows:

(i) Uttar Pradesh Prisoners Release on Probation Act, 1938:

Life convicts who have undergone 14 years of imprisonment without remission are conditionally released on license by Government subject to good conduct post-release. This mechanism is also called 'Form-A release'.

(ii) Under Section 432 of Code of Criminal Procedure, 1973 read with Para 180 of U.P. Jail Manual, 2022: Life convicts

who have undergone 14 years of imprisonment without remission are considered for early release. This mechanism is also called 'Nominal Roll'.

- (iii) Under Section 432 of Code of Criminal Procedure, 1973 read with Para 177, 178, 179 of U.P. Jail Manual, 2022: Release on the basis of infirmity, old age and critical illness as assessed by the Medical Board. This mechanism is also called 'Infirmity Roll'.
- (iv) Under Article 161 of the Constitution of India along with some filters formulated by State in Standing Police made in 2018 as amended in 2021 and 2022: Life convicts who have undergone 16 years without remission and 20 years with remission with some relaxations for terminally ill and old aged prisoners who may qualify certain filters laid down by State.
- (v) General Mercy Petition under Article 161 of the Constitution of India: Consideration by the Hon'ble Governor of the State upon application by the convicts. There is no minimum sentence period required for this mechanism.

It was also brought to light in the said affidavit that the aforementioned five mechanisms have their independent considerations and requirements, the flow of applications from one authority to another in each mechanism is distinct.

8. In the meantime, many prisoners who were eligible for grant of early release, approached this Court by filing applications for intervention and directions seeking protection from re-arrest until their remission application was decided by the State. On 13.11.2024, this Court directed the Secretary (Prisons) of the State of Uttar Pradesh to give the jail-wise details of prisoners who have completed fourteen years of their sentence which is bare minimum period for consideration of their cases for remission. In the same order, it was directed that persons who had served more than 14 years of sentence shall not be arrested until the next date of listing.

9. In compliance, the affidavit dated 12.12.2024 filed by the State indicated a shocking picture that a large number of cases were pending for remission at various stages, on different tables or with different authorities. Particularly, it was informed that throughout the State, there were 1678 prisoners who had served more than 14 years' sentence without remission as on 31.10.2024 and their present status was as follows:

ELIGIBLE PRISONERS THROUGHOUT THE STATE

(AS ON 31.10.2024)

Sl. No.	Present Arrangement	No. of life convicts
1.	No. of released prisoners	93
2.	No. of rejected proposals	54
3.	No. of cases to be sent to competent authority	915
4.	Pending proposals for scrutiny at Headquarter level	62
5.	No. of cases pending at the level of District Magistrate	431
6.	Proposals sent back to Jail for correction and pendency at jail level due to unavailability of copy of judgment	97
7.	No. of ineligible prisoners	23
8.	No. of dead prisoners	03
Total		1678

10. With respect to the 158 prisoners who had been released pursuant to the directions in ***Ganesh*** (Supra), it was informed in the affidavit dated 12.12.2024 that 21 of them had not completed 14 years of sentence, 20 of them had been arrested and 1 person had died. In respect of the remaining 137 prisoners, their cases for premature release were pending at various stages as detailed below:

DETAILS OF PRISONERS RELEASED PURSUANT TO GANESH

Sl. No.	Details of Proposals	No. of proposals
1.	No. of released prisoners	19
2.	No. of rejected proposals	03
3.	Proposals sent back to Jails from Headquarter for corrections	07
4.	Pending proposals at District Magistrate level	05
5.	Pending proposals at Headquarter level	19
6.	Proposals sent to competent authority level	84
Total		137

11. In this sequence, and realising the right of the persons to have their request for premature release considered, on 17.12.2024, this Court took a strict view and directed the State to clear all pending proposals of the 137 prisoners released pursuant to **Ganesh** (Supra) within a period of two months and in the meanwhile, it was directed that the State shall not arrest them. It was noticed by this Court that the reasons stated for pendency at different levels was either not at all satisfactory and they were non-explanatory.

12. In compliance of the aforesaid direction to consider the early release applications of the 137 prisoners who were eligible for early release and were released pursuant to the directions in **Ganesh**

(Supra), an affidavit dated 24.02.2025 was filed by the State reporting substantial compliance. It was informed that out of the 137 prisoners, 36 prisoners had been released, while 81 applications were rejected. 6 prisoners were covered under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 so their cases had been referred to the Central Government for final decision and such decision was awaited. The proposal for 13 prisoners was said to be pending at the competent level while 1 prisoner had died on 25.08.2024. A comparative table was also supplied detailing the updated status of pendency in respect of these prisoners as on 24.02.2025 juxtaposed against the status on 12.12.2024:

Sl. No.	Details	Status as on 12.12.2024	Status as on 24.02.2025
1.	No. of released prisoners	19	36
2.	No. of rejected proposals	03	81
3.	Proposals sent back to Jails from Headquarter for corrections	07	Nil.
4.	Pending proposals at District Magistrate level	05	Nil.
5.	Pending proposals at Headquarter level	19	Nil.

6.	Consent of Government of India pending	Nil.	06
07.	Proposals sent to competent authority level	84	13
08.	Deceased		01
Total		137	137

13. While the process of consideration of the applications for premature release of the prisoners was ongoing, this Court, on 04.03.2025 granted further three weeks' time for filing the compliance report. The Court realized the huge gap in implementation of the different mechanisms for early release in the State which is marred by humongous administrative delay caused at different stages before different authorities. It was informed that a major cause of such delay is due to the processing of remission applications through physical paperwork and the Court mooted the proposal to take corrective measures.

14. This Court in its order dated 04.03.2025 directed the State to develop a software to properly implement the judgement dated 18.02.2025 of this Court in ***Policy Strategy for Grant of Bail, In re²*** where this Court had given a nod of approval to the National

² 2025 SCC OnLine SC 349.

Legal Services Authority's (hereinafter referred to as "**NALSA**") Standard Operating Procedure on legal assistance, operationalisation, and co-ordination in improving the process of premature release, parole, furlough of prisoners, 2022 (hereinafter referred to as "**SOP**") which had been formulated as per the directions issued by this Court in Special Leave Petition (Crl.) No. 4358-59 of 2021 in the case of **Kadir v. State of Uttar Pradesh**, wherein it was held that the case of prisoners must be considered for premature release as and when they become eligible and the consideration should be automatically triggered without any need of an application being filed and the process of their consideration should be initiated a few months prior to their date of becoming eligible. Relevant portion of the judgement in **In Re: Policy Strategy for grant of bail** (Supra) is quoted herein for reference:

"9. At this stage, we may note here that the National Legal Services Authority (NALSA) has formulated a Standard Operating Procedure on legal assistance, operationalisation, and co-ordination in improving the process of premature release, parole, furlough of prisoners, 2022 (for short, 'the SOP'). The SOP has been formulated as per the directions issued by this Court in Special Leave Petition (Crl.) No. 4358-59 of 2021 in the case of Kadir v. State of Uttar Pradesh. The SOP contemplates prison superintendents of all the prisons preparing a list of all life convicts and other convicts who will be entitled to be considered for premature release in immediate four months as per the eligibility provided under the state policy. It is thus apparent that after the preparation of a list of all life

convicts and other convicts who will be entitled to be considered for premature release, the said list must be regularly forwarded by the prison superintendents to the appropriate Government so that the case of premature release of such convicts is considered by the appropriate Government. Since we are on the SOP made by the NALSA, we may note here that the SOP provides for appointing an advocate for the purposes of challenging the order refusing to grant permanent remission. We request NALSA to consider incorporating in the SOP the requirement of bringing to the notice of the convict the fact that the convicts have the liberty to challenge the order of rejection of grant of premature release.

...

21. *We, therefore, record the following conclusions:*

a) Where there is a policy of the appropriate Government laying down guidelines for consideration of the grant of premature release under Section 432 of the CrPC or Section 473 of the BNSS, it is the obligation of the appropriate Government to consider cases of all convicts for grant of premature release as and when they become eligible for consideration in terms of the policy. In such a case, it is not necessary for the convict or his relatives to make a specific application for grant of permanent remission. When the jail manual or any other departmental instruction issued by the appropriate Government contains such policy guidelines, the aforesaid direction will apply;

b) We direct those States and Union Territories that do not have a policy dealing with the grant of remission in terms of Section 432 of the CrPC or Section 473 of the BNSS to formulate a policy within two months from today;

c) Appropriate Government has the power to incorporate suitable conditions in an order granting permanent remission. Consideration of various factors, which are mentioned in the paragraph 13 above by way of illustration, is necessary before finalizing the conditions. The conditions must aim at ensuring that the criminal tendencies, if any, of the convict remain in check and that the convict rehabilitates himself in the society. The conditions should not be so oppressive or stringent that the convict is not able to take advantage of the order granting permanent remission. The

conditions cannot be vague and should be capable of being performed;

d) Order granting or refusing the relief of permanent remission must contain brief reasons. The order containing reasons should be immediately communicated to the convict through the office of the concerned prison. The copies thereof should be forwarded to the Secretaries of the concerned District Legal Services Authorities. It is the duty of the prison authorities to inform the convict that he has the right to challenge the order of rejection of the prayer for the grant of remission.

e) As held in the case of Mafabhai Motibhai Sagar⁴, an order granting permanent remission cannot be withdrawn or cancelled without giving an opportunity of being heard to the convict. An order of cancellation of permanent remission must contain brief reasons;

f) The District Legal Services Authorities shall endeavour to implement NALSA SOP in its true letter and spirit.

g) Further, the District Legal Services Authorities shall also monitor implementation of conclusion (a) as recorded above. For this purpose, the District Legal Services Authorities shall maintain the relevant date of the convicts and as and when they become eligible to a consideration for grant of premature release, they shall do the needful in terms of conclusion (a). The State Legal Services Authorities shall endeavour to create a portal on which the data as aforesaid can be uploaded on real time basis.”

15. With an intent to reflect the purpose behind the judgement ***In Re: Policy Strategy for grant of bail*** (Supra), this Court vide order dated 04.03.2025 recorded the assurance of the State of Uttar Pradesh to develop a software and prepare an SOP to that effect, in the following terms:

“At the same time, as assured, the Government shall develop a software and prepare SOP, thereby, compliance of judgment dated 18.02.2025 of this Court in the case of In

Re: Policy Strategy for grant of bail (Suo Motu Writ Petition (Crl.) No. 4 of 2021) shall be timely observed in particular the cases of those prisoners who have completed 14 years/ 16 years of the actual jail sentence.”

16. The State, in compliance by affidavit dated 28.03.2025, informed that e-Prisons software already exists wherein information regarding prisoners who have completed 14 years of sentence without remission is shown. Besides this, National Informatics Centre (hereinafter referred to as “**NIC**”) has been requested *vide* letter dated 27.03.2025 to develop and customise the premature release e-module as per need of various policies of premature release prevalent in the State of Uttar Pradesh.

17. On 01.04.2025, this Court requested Mr. K. Parameshwar, learned senior counsel to assist the Court as *Amicus Curiae* in formation of the software envisaged in its earlier order dated 04.03.2025. Relevant portion of the order dated 01.04.2025 is quoted herein for reference:

“After hearing learned counsel appearing for both the parties, we requested Mr. K. Parameshwar, learned senior counsel to assist this Court as Amicus Curiae and to give suggestions regarding preparation of the software, indicate in flowchart whereby the cases of the prisoners who have completed the requisite period of sentence in jail after conviction whereafter their cases may be taken for consideration for premature release/remission automatically in terms of policy by virtue of that software. The flow chart would also indicate the period of taking

decision stepwise by the authorities which are indulged in this process as per law. It would further indicate the required indulgence of the State Legal Services Authority at appropriate stage and with interval of how many days, the Committee who has to take a decision ought to have sit.”

18. Thereafter, this Court has held numerous meetings for developing a software for automating the process of premature release and for initiation of the process of consideration months prior to the prisoners becoming eligible, with the team from NIC, the DIG (Prisons), State of Uttar Pradesh, the Prisons Administration Department, State of Uttar Pradesh, the representative from the IT Wing of the High Court of Madhya Pradesh and the learned *Amicus*, on 18.02.2025, 15.09.2025, 15.12.2025, 08.01.2026, 19.01.2026, 04.02.2026 and 07.04.2026.

19. Through the concerted efforts, inputs and suggestions of all concerned, the NIC has successfully developed the ‘***E-Prisons Early Release Processing Module***’ (hereinafter referred to as the “**Processing Module**”) within the pre-existing e-Prisons platform for processing the applications for premature release of prisoners under the five policies prevailing in the State of Uttar Pradesh for that purpose. The Processing Module aims to provide several

advantages and has various salient features, including but not limited to:

- (i) The process for premature release of convicts is automatically commenced by identifying the prisoners who are eligible for premature release, four months in advance;
- (ii) The prisoner/guardian receives routine updates regarding the progress of his/her application, at each stage of the process, through automated alerts via SMS and WhatsApp;
- (iii) The physical movement of files is eliminated by uploading the PDF / scanned files to the online platform during the pilot stage of implementation. It is envisioned that once the infrastructure and training is in place, at a later stage, this would migrate to an automated paperless online system;
- (iv) The procedural delay at each stage/level of the process is sought to be curtailed by enforcing timelines upon the respective stakeholders, along with a short grace period to meet unforeseen exigencies. Further, based on the inputs of the Court, an alert system has been implemented for each stakeholder with different colour coding for process

undertaken within the time period prescribed, and for the grace period;

- (v) It is proposed to provide for interconnectivity of data of the prisoner available with the Jail (Prisoner Identification Number), Police Station (FIR), and Courts (Case Number Record) so as to automate data-sharing;
- (vi) Accountability has been fixed upon each stakeholder through digital signatures and linking of login ID of the officers concerned in the interest of transparency;
- (vii) There is centralised monitoring and processing update dashboard for the competent authorities to monitor the stakeholders and track the time taken by each stakeholder, for generating quarterly reports, to identify delays, and to trigger remedial actions.

20. The Processing Module is currently attuned with the policies for early release applicable in the State of Uttar Pradesh, and we are directing its implementation as a pilot project in the Central Jail, Agra and the District Jail, Lucknow. During our deliberations in the aforementioned meetings, we have suggested to the NIC that the software be coded in such a manner that upon successful completion of the pilot project in the said jails, the software can be

widely implemented, first across jails in Uttar Pradesh and then across the country, tweaking the software to adapt to the different policies for early release applicable in different States. It is also our vision and hope that the Processing Module will, in future, seamlessly integrate the data available with the police, prison authorities and the judiciary so as to further automate the process and to make it completely paperless.

21. During our deliberations in the aforementioned meetings, all the inputs have been vital and helpful. In the interregnum, Mr. Kuldeep Singh Kushwah, Registrar (Information & Technology), Jabalpur (Madhya Pradesh), who was part and parcel of those discussions, had developed a software on those issues and displayed a module prepared by the Madhya Pradesh High Court for the automation of the early release applications in the State of Madhya Pradesh in terms of the policies applicable in the State. The software prepared by the Madhya Pradesh High Court also appears to be comprehensive. While the pilot project of the Processing Module is ongoing in the State of Uttar Pradesh in terms of the directions issued in this order, the State of Madhya Pradesh may implement the software as developed by the High Court. After the conclusion of the pilot project, the best practices,

implementation framework and learning from the Madhya Pradesh High Court, software can contribute towards improving the Processing Module and vice versa. Ultimately, the intent of this Court is to ensure that in the future, a catch-all software can be prepared which can be made applicable across the board in all States across the country and both software can contribute towards achieving a seamless system for automating the process of consideration of early release applications.

22. In order to operationalize the pilot project of the Processing Module in Central Jail, Agra and the District Jail, Lucknow initially, the following directions are being issued:

- (i) The State Government shall provide the following necessary human resources, including but not limited to:
 - i. two computer operators at the Central Jail, Agra;
 - ii. one computer operator at the District Jail, Lucknow;
 - iii. one computer operator at all range offices;
 - iv. three computer operators at Prison Headquarter level in the concerned branch;
 - v. three computer operators at the State Government level in the concerned branch and

- vi. two technical experts with domain knowledge in computer applications to supervise and assist the work of the above-mentioned computer operators and co-ordinate with the NIC in case of any technical issues.
- (ii) The aforementioned computer operators shall exclusively be tasked with the implementation of the Processing Module as their responsibility.
- (iii) The State government shall provide computers and other infrastructural / hardware requirements of the aforementioned computer operators and technical experts and facilitate their working;
- (iv) The NIC and the State shall within a time period of three weeks, together set up a team of officers, and assign one suitable person as the Nodal officer who shall impart training to the officials and stakeholders for effective operation of the software. Such training shall be imparted with representation of the District Legal Services Authority and State Legal Services Authority;
- (v) The computer operators as mentioned in direction (i) shall be engaged within the next four weeks and the first

training session and initiation of the pilot project of the Processing Module shall be undertaken within a period of four weeks at Central Jail, Agra and District Jail, Lucknow;

- (vi) In case any further directions are necessary to facilitate the pilot project of implementation of the Processing Module, liberty is granted to file an application in that regard.
- (vii) The State of Uttar Pradesh shall make all necessary logistical arrangements for the pilot project and ensure its smooth operation. The Principal Secretary (Prisons) and the Director General (Prisons) shall oversee such implementation.
- (viii) The State Legal Services Authority shall also set-up a committee within a period of four weeks, which shall co-ordinate with the State and respective stakeholders to steer the implementation of the pilot project. If the State Legal Services Authority deems it necessary, it may request a Hon'ble retired judge of the High Court having an interest in the cause to monitor the due implementation of the software, on *pro bono* basis. Furthermore, if the committee or the respective Hon'ble retd. Judge has any

recommendations, they may be placed before the Registry of this Court, at which point the matter shall be listed for further directions.

23. The Registry is also directed to circulate a copy of this order to all States and Union Territories, which, if they deem fit, may develop software along similar lines in collaboration with the NIC or otherwise, for the automatic consideration of prisoners' applications for premature release in accordance with their respective policies/schemes.

24. List on 18th May 2026 for compliance and for further directions.

.....,J.
[J.K. MAHESHWARI]

.....,J.
[ATUL S. CHANDURKAR]

**New Delhi;
April 13, 2026.**