2026:DHC:1399

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

\+ **W.P.(CRL) 4309/2025, CRL.M.A. 38794/2025, CRL.M.A. 38795/2025, CRL.M.A. 1110/2026 & CRL.M.A. 1111/2026**

Reserved on: 21st January, 2026
Pronounced on: 17th February, 2026
Uploaded on: 17th February, 2026

ASIF @ NAEEM .....Petitioner

Through: Mr. Sarthak Maggon, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) .....Respondent

Through: Mr. Amit Tiwari, CGSC with Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Kushagra Malik & Mr. Arpan Narwal, Advocates for UOI.
Ms. Kamakshi Sehgal, Advocate for Union of India.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. This petition, under Article 226 of the Constitution, assails the decision of the Sentence Review Board ("SRB") recorded in the minutes of its meeting dated 30th July, 2025, declining the Petitioner's request for premature release. The Petitioner also challenges the consequential approval/communication issued on behalf of the Government of NCT of Delhi founded on those minutes.

2. The Petitioner is a Bangladesh national. He stands convicted in FIR No. 284/2004, at P.S. Mansarovar Park, Delhi. By judgment dated 25th

January, 2010, the Trial Court convicted him for offences including Sections 396/449 read with Section 34 of the Indian Penal Code, 1860 ("IPC"), besides other charges.

3. In appeal, the Division Bench, by judgment dated 19th February, 2014, affirmed the conviction under Sections 396/449 read with Section 34 IPC, while acquitting the Petitioner of the charges under Section 412 IPC and Section 27 of the Arms Act, 1959. The challenge carried further did not succeed.

4. The Petitioner was repatriated to Bangladesh to serve the remainder of the sentence on 1st December, 2021. The record placed before this Court includes the commutation roll from the receiving State describing his conduct in custody as satisfactory and law-abiding. As per the commutation roll, the Petitioner had undergone 21 years, 5 months and 7 days of actual incarceration as on 18th January, 2026, and 27 years, 1 month and 12 days with remission.

5. Earlier, the SRB had declined the Petitioner's request for premature release in 2024. The Petitioner approached this Court. By judgment dated 23rd May, 2025, the rejection was set-aside and the SRB was directed to reconsider the case strictly in accordance with the applicable policy dated 16th July, 2004 and the Delhi Prison Rules, 2018, by passing a reasoned decision within the stipulated time. The minutes dated 30th July, 2025 represent the decision taken upon such reconsideration. The same read as follows:

> ***"8.1 : The Case of Asif Naeem Sb Sh. Abdul Rub Munshi-(Age-41 Yrs.) (Bangladesh National)- Item No. 2***
>
> ***(i) Background:*** *This case has been put up in compliance to the order dated 23.05.2025, passed by the Hon'ble High Court of Delhi, in W. P. (Cr1.) No.*

1/2025 in the matter of Asif Alias Naeem Versus State ofNCT of Delhi and Anr.

(ii) Eligibility conditions: *Imprisonment for 20 years including remissions but not less than 14 years of actual imprisonment. This case has been considered under the policy/order dated 16.07.2004 issued by the Govt. of NCT of Delhi i.e. policy that was existing on the date of conviction.*

(iii) Sentence details: *Asif @ Naeem Sb Sh. Abdul Rub Munshi is undergoing life imprisonment in case FIR No. 284/2004, U/S 396/449/412/34 IPC and 25/27 Arms Act, P.S. M. S. Park, Delhi for committing murder of a person during dacoity. As on 31.12.2023, the convict has undergone imprisonment of 19 years, 11 months & 24 days in actual and 24 years, 04 months & 18 days with remission. The said undergone period of imprisonment is taken from letter dated 02.01.2024 received from Bangladesh High Commission, New Delhi.*

(iv) Deliberation: *The Board considered the reports/records received and took into account all the facts and circumstances of the case. As per latest police report dated 18.06.2025, the address E-364, New Seemapuri was checked and no such person or family found residing at this address and the premature release is opposed/not recommended.*

Considering all the facts, circumstances under which the offence was committed, nature, gravity and perversity of the crime, age of the convict, the Special Commissioner of Police (Crime), Delhi during the meeting concluded that the propensity to commit similar crime again by the convict cannot be ruled out. The Director, Social Welfare Department, Delhi has also not supported his premature release during the meeting.

(v) Recommendation: *The Board is of the view that with the given back drop of the crime committed, it might not be in the interest of the society at large to release such a convict who had shaken the conscience of the society at large by doing such a heinous crime. Therefore, the Board after detailed deliberation and discussion, as out-lined above, unanimously decided to REJECT premature release of convict Asif @ Naeem Sb Sh. Abdul Rub Munshi at this stage."*

The governing framework

6. The applicable framework is not a matter of discretion in the abstract. The executive may have the power to grant or refuse remission or premature release, but once a policy and rules structure the field, the decision must be taken within that framework and for reasons that the policy recognizes. The

Supreme Court has also emphasized that, ordinarily, the relevant policy for consideration is the one applicable as per the governing rules for the class of prisoners and, where a policy itself links applicability to the date of conviction, the decision-maker cannot depart from it without legal basis.[1]

7. The Delhi Prison Rules, 2018 (Chapter XX on premature release) articulate the controlling objective in Rule 1244, namely, reformation and rehabilitation with societal protection, and place conduct and performance during incarceration at the heart of the evaluative exercise.

8. The 2004 policy, requires a comprehensive consideration covering (i) family and social background, (ii) the offence and circumstances of its commission, (iii) prison conduct, (iv) conduct on parole/furlough if any, (v) health, and (vi) a recommendation supported by reasons.

9. Clause 3.1 of the 2004 Policy structures the eligibility timelines for premature release. In cases falling within the capital category, premature release is considered after completion of the prescribed period of incarceration inclusive of remission, subject to a minimum of 14 years' actual imprisonment. In the category of heinous offences, including the offence for which the Petitioner stands convicted, consideration arises only after completion of 20 years including remission; however, even in such cases, the policy clarifies that *"the period of incarceration inclusive of remission should not exceed 25 years."*

10. It is also important to keep the statutory context in view. The "appropriate Government" retains the power to suspend or remit sentences. Under the Bharatiya Nagarik Suraksha Sanhita, 2023, that power is in

[1] ***Joseph v. State of Kerala*** 2023 SCC Online SC 1211.

Section 473 (*pari materia* with Section 432 of the Code of Criminal Procedure, 1973).

11. Repatriation does not dilute that power. Section 11 of the Repatriation of Prisoners Act, 2003 expressly provides that transfer of a prisoner does not affect the power of the Government to suspend, remit or commute the sentence in accordance with law. The implementation route may require inter-governmental communication. The legal competence to take the remission decision remains intact.

The Record before the Court

12. The State has adopted, as its response in the present petition, the affidavit and pleadings earlier filed in W.P.(CRL) 1/2025. The matter is examined on the basis of the writ record, that affidavit, and the status reports subsequently called for.

13. The status report filed by the Government of NCT of Delhi encloses the commutation roll received from the Senior Superintendent of the receiving jail in Bangladesh. The Union of India has placed on record the correspondence exchanged between the Ministry of Home Affairs and the Ministry of External Affairs, including documentation received through official channels in relation to the Petitioner's repatriation and incarceration.

The impugned decision

14. The minutes dated 30th July, 2025 proceed, in substance, on two planks. First, the gravity of the offence and the "perversity" of the crime. Second, an apprehension, stated in broad terms, that the propensity to commit a similar crime cannot be ruled out.

15. Beyond describing the offence, the only factual input adverted to is a police report stating that the address at E-364, New Seemapuri was checked,

and no such person or family was found residing there. The minutes then record that premature release is "opposed/not recommended" and conclude that release "might not be in the interest of the society at large".

16. The petition therefore raises a narrow, though important, question: whether the SRB, while exercising discretion under the governing framework, has undertaken the evaluative exercise mandated by the 2004 policy and the Delhi Prison Rules, 2018, or whether the decision reflects a mechanical rejection driven primarily by the label of the offence and a conjectural assessment of future risk.

Scope of review and legal principles

17. The legal position admits of no dispute that no convict can demand remission or premature release as a matter of right. However, once the executive frames a policy and the prison rules prescribe a structured process, the convict acquires a right to a fair, meaningful, and non-arbitrary consideration under that framework. The discretion is broad, but it is not unstructured. It is confined by the governing policy, the prison rules, and the discipline of reasons.

18. The policy dated 16th July, 2004, makes two features explicit. First, eligibility after the stipulated period of actual incarceration does not translate into automatic release, and the SRB retains discretion. Second, the discretion must be exercised by weighing the circumstances of the crime together with other relevant factors, including whether the convict has lost the potential for committing crime, the possibility of rehabilitation, and the socio-economic condition of the family. The policy also requires a comprehensive note dealing with the family and social background, the circumstances of the offence, prison conduct, and a reasoned

recommendation. Thus, eligibility triggers consideration. It does not guarantee release. At the same time, the policy does not permit the SRB to treat the label of the offence as a veto that makes the rest of the inquiry redundant.

19. The Delhi Prison Rules, 2018 reinforce the same approach. Rule 1244 states that premature release is anchored in reformation, rehabilitation, and reintegration, while ensuring protection of society, and it recognizes that conduct and performance in prison bear directly on rehabilitative potential. The Rules also contemplate that the SRB decision should be a speaking one, and caution against treating the police view as determinative in isolation.

20. This insistence on reasons is not a cosmetic requirement. The Supreme Court has repeatedly held that recording reasons is an essential component of fairness in administrative and quasi-judicial decision-making. A conclusion without an intelligible rationale disables scrutiny and breeds arbitrariness. In matters of premature release, the relevant considerations, such as the circumstances of the offence, antecedents, conduct in custody, and the likelihood of reoffending, are not mere formalities to be mechanically recorded. They constitute the foundation of the evaluative exercise.

21. The same discipline appears in ***Satish @ Sabbe v. State of Uttar Pradesh***,[2] where the Supreme Court cautioned against mechanical refusals that ignore statutory or policy criteria and recognized that a constitutional court may step in where the executive repeatedly fails to discharge its obligation of meaningful consideration.

[2] 2021 14 SCC 580.

22. The gravity of the offence, even when undeniable, cannot become the single note refrain that drowns out every other mandatory consideration. In ***Satish @ Sabbe***, the Supreme Court cautioned that "gravity of the original crime cannot be the sole basis" for refusing premature release, and that any assessment of future criminality must be grounded in antecedents and conduct during incarceration, rather than vague apprehensions.

Analysis and findings

23. Tested on the above touchstones, the impugned minutes do not withstand scrutiny. The SRB has recited the nature of the offence and then moved, in a single leap, to a conclusion on public interest. What is missing is the bridge. There is no discussion of the Petitioner's custodial record, no evaluation of rehabilitative indicators, no engagement with the prison recommendation contained in the commutation role, and no attempt to explain why the long and unbroken incarceration, coupled with satisfactory prison conduct, does not mitigate the perceived risk.

24. The formulation that *"propensity to commit similar crime again… cannot be ruled out"* is, a bare assertion. It is unsupported by any antecedents, any adverse prison material, any adverse parole or furlough history (none exists), or any behavioural warning signs recorded by prison authorities. The assessment of future risk, if it is to be adverse, must be reasoned and evidence-linked. A conclusion stated as a possibility is not a reason.

25. The police input relied upon fares no better. The report that the Delhi address could not be verified is not an assessment of risk. It is, at most, a verification failure about an address in India. In the case of a repatriated prisoner, the relevant inquiry is whether there exist a structured

rehabilitative pathway and social anchorage in the receiving State, because that is where the prisoner will be released and reintegrated. On this, the commutation role and the documents routed through official channels provide a far more germane picture than an address check in Delhi.

26. The SRB has also treated "non-recommendation by police authority" as a weighty adverse factor, without disclosing what, in substance, the police apprehension is, and without undertaking the balancing exercise demanded by the Rules. The Delhi Prison Rules caution against an approach where the police opinion becomes the decisive factor. The decision must reflect a collective and contextual weighing of all inputs.

27. The record, on the other hand, contains material that squarely attracts the rehabilitative axis of the framework. The Petitioner has undergone well beyond the threshold contemplated for consideration in serious categories and has crossed the benchmark indicated under Clause 3.1 of the 2004 policy. As noted earlier, the commutation roll records 21 years, 5 months and 7 days of actual incarceration and 27 years, 1 month and 12 days including remission, with his conduct consistently marked satisfactory. The social investigation report dated 16th December, 2021 likewise notes satisfactory custodial conduct and no adverse material. There is no indication of prison offences, violent behaviour, or any pattern suggesting institutional misconduct.

28. The State is right in asserting that the offence is grave. That reality does not evaporate with time. The policy itself recognizes the relevance of the circumstances and nature of the crime. However, the policy and the Rules also proceed on the premise that even serious offenders may, after prolonged incarceration and demonstrated reform, become eligible for a

executive decision with due deliberation. The SRB's function is to perform that calibration. A decision that effectively stops at the caption "murder during dacoity" and then adds a speculative fear of recidivism does not amount to the calibrated assessment demanded by the governing framework.

29. The next question is whether a remand is the appropriate recourse. In the facts and circumstances noted above, it is not. One remand has already been granted. The reconsideration has returned with substantially the same infirmity. A further remand would therefore serve little purpose other than prolonging incarceration, while the record continues to show no cogent material that answers the policy's rehabilitative criteria in the negative. When a statutory framework and a binding policy prescribe the manner in which the power is to be exercised, the executive cannot reduce the exercise to a formal ritual by repeating broad generalities and leaving the mandatory considerations untouched. The impugned reconsideration does exactly that. It reproduces the earlier defect, with the label of the "heinous offence" and a speculative apprehension of future risk, without an evidence-linked assessment of antecedents and prison conduct to deny the request. ***Satish @ Sabbe*** makes the position clear. Where authorities fail to discharge the obligation of reasoned consideration despite judicial directions, a constitutional court may step in and issue a writ of mandamus to secure compliance, rather than consigning the prisoner to an endless cycle of reconsiderations. Further, the gravity of the original crime, however serious, cannot become the sole ground to refuse premature release once the policy threshold is crossed. Any assessment of the likelihood of reoffending must be grounded in material, including antecedents and conduct during incarceration, and not in vague fears or unreasoned assertions. ***Zahid***

Hussein v. State of W.B.,[3] reiterates the same principle, cautioning that conclusions about future criminality cannot rest on conjecture.

30. Considering the material placed before the Court, the Petitioner satisfies the eligibility threshold for consideration under the applicable framework, and there is no adverse material of conduct or antecedents which would justify continued incarceration on the ground of future risk. The SRB's refusal is therefore unsustainable as an arbitrary exercise of discretion, resting on conjecture and the gravity of the offence alone, contrary to the policy and the Rules.

31. The repatriation arrangement does not stand in the way of relief. The governing statute preserves the operation of the law relating to suspension, remission and commutation, and the bilateral framework recognizes that the power to grant remission or commutation vests with the transferring State. The enforcement of the sentence may be carried out in the receiving State, but the decision to remit the unexpired portion, once taken in accordance with the applicable policy, is capable of being communicated through the designated governmental channels for implementation.

32. The petition is accordingly allowed in the following terms:

(i) The minutes of the SRB meeting dated 30th July, 2025, insofar as they reject the Petitioner's request for premature release, are set aside, along with any consequential approval/communication founded thereon.

(ii) The Petitioner is considered fit for premature release under the applicable framework, on the basis of the material on record, including the commutation roll reflecting satisfactory prison conduct.

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[3] (2001) 3 SCC 750.

(iii) The Government of NCT of Delhi shall, within two weeks, process the case for issuance of the consequential orders and shall, through the Ministry of Home Affairs and the Ministry of External Affairs, communicate the decision to the concerned authorities in Bangladesh for implementation in accordance with the bilateral arrangement.

(iv) The concerned jail authority in Bangladesh shall be informed forthwith through official channels, and compliance shall be ensured without avoidable delay.

33. A copy of this order shall be forwarded to the concerned Department and to the nodal prison authority for information and compliance.

SANJEEV NARULA, J

FEBRUARY 17, 2026
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