

GAHC010018542026



2026:GAU-AS:6526

**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/525/2026**

SRI THOMAS GURIAH  
SON OF LT FRANSISH GURIAH, RESIDENT OF VILLAGE JORPUKHURI  
SANTIPUR, P.S. PANERY, DISTRICT UDALGURI BTR, ASSAM, PRESENTLY  
LODGED AT DISTRICT JAIL, MANGALDOI 784125.

VERSUS

THE STATE OF ASSAM AND 8 ORS.  
REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT OF ASSAM,  
ASSAM SECRETARIAT, DISPUR, GUWAHATI, ASSAM 781006.

2:THE ADDL CHIEF SECRETARY TO THE GOVT OF ASSAM HOME AND  
POLITICAL DEPTT

2ND FLOOR  
I BLOCK  
JANATA BHAWAN  
DISPUR  
GUWAHATI  
ASSAM 781006.

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
ASSAM HOME AND POLITICAL DEPARTMENT

2ND FLOOR  
I BLOCK  
JANATA BHAWAN  
DISPUR  
GUWAHATI  
ASSAM 781006.

4:THE STATE LEVEL REVIEW BOARD UNDER THE ASSAM PRISONS ACT

2013

REPRESENTED BY ITS MEMBER SECRETARY  
I.E.  
THE SECRETARY  
HOME AND POLITICAL DEPARTMENT  
2ND FLOOR  
I BLOCK  
JANATA BHAWAN  
DISPUR  
GUWAHATI  
ASSAM 781006.

5:THE LEGAL REMEMBRANCER CUM COMMISSIONER AND SECRETARY  
TO THE GOVT OF ASSAM  
JUDICIAL DEPARTMENT  
2ND FLOOR  
E BLOCK  
JANATA BHAWAN  
DISPUR  
GUWAHATI  
ASSAM 781006

6:THE INSPECTOR GENERAL OF PRISONS

ASSAM  
ASSAM PRISON HEADQUARTERS  
KHANAPARA  
GUWAHATI  
ASSAM - 781022.

7:THE DISTRICT COMMISSIONER

UDALGURI OFFICE OF THE DISTRICT COMMISSIONER  
UDALGURI  
ASSAM - 784509.

8:THE SUPERINTENDENT OF POLICE

UDALGURI OFFICE OF THE SUPERINTENDENT OF POLICE  
UDALGURI  
ASSAM 784509.

9:THE SUPERINTENDENT

DISTRICT JAIL  
MANGALDOI MANGALDAI  
ASSAM- 784125

**Advocate for the Petitioner** : MR A ATREYA, MR. J KONWAR,MS. C KALITA

**Advocate for the Respondent** : GA, ASSAM,

**- B E F O R E -**

**HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

For the Petitioners : Mr. A Atreya, Ms. C Kalita, Mr. J Konwar

For the Respondent(s) : Ms. M Barman, G.A., Assam.

Date on which judgment  
is reserved : **N/A.**

Date of pronouncement  
of judgment : **11.05.2026**

Whether the pronouncement  
is of the operative part  
of the judgment ? : **No.**

Whether the full judgment  
has been pronounced : **Yes.**

## **JUDGMENT & ORDER (ORAL)**

Heard Mr. A. Atreya, learned counsel appearing for the petitioner and also heard Ms. M. Barman, learned Government Advocate, appearing for the State respondents.

**2.** By way of this petition under Article 226 of the Constitution of India, the petitioner seeks consideration of his case for remission and premature release on the basis of the proposal dated 30.04.2025 prepared by the Superintendent, District Jail, Mangaldai.

**3.** The brief facts of the case are that the petitioner, who has completed 19 years, 6 months and 1 day of actual imprisonment as on 28.04.2025 and has earned remission of 1830 days, has thereby undergone a sentence period of 25 years, 11 months and 29 days up to 28.04.2025. Claiming eligibility for remission and consequential premature release in terms of the procedure laid down in the Office Memorandum dated 06.10.2015 issued by the Government of Assam in the Home Department under Sections 432, 433 and 433-A of the Cr.P.C., the petitioner submitted a prayer through the Superintendent of the District Jail seeking consideration of his case for premature release.

**4.** It is the specific case of the petitioner that even after the lapse of more than 218 days from the date of convening of the Review Board, no decision on the proposal for release of the petitioner had been communicated to him. Accordingly, the petitioner was constrained to approach this Court by way of the present writ petition.

**5.** Pertinent it is that on 28.04.2026, when this matter was taken up before this Court, Ms. Barman, learned Government Advocate, produced a copy of the letter dated 27.04.2026 issued by the Deputy Secretary to the Government of Assam, Home & Political Department, addressed to the Office of the State Counsel, intimating that

the State Level Review Board, after re-examining the proposal for remission submitted on behalf of the petitioner, had rejected the same. The said letter dated 27.04.2026 was accordingly kept on record and marked as Flag 'X'. The State Level Review Board held its meeting on 19.03.2026 with the Additional Chief Secretary to the Government of Assam, Home & Political Department, as the Chairperson under Section 20 of the Assam Prisons Act, 2013. The minutes of the meeting of the Review Board reveal, inter alia, that the Board decided that remission proposals ought to be confined only to "exceptional cases", such as terminally ill patients and cancer patients, and that prisoners undergoing life imprisonment should ordinarily not be recommended for release merely upon completion of 14/20 years unless falling within such exceptional category. Relevant portion of the aforesaid minutes is reproduced hereunder for ready reference.

*"The meeting was convened to re-examine the cases of remission in respect of 32 (thirty two) life convicts for the year 2025 and review the cases of 58 (Fifty Eight) inmates undergoing sentence of life imprisonment and to recommend their premature release as per Govt. OM No. HMB.143/2010/Pt-II/194 Dated 06.10.2015.*

*Initiating the discussion, the Additional Chief Secretary. Home & Political Department along with the other members of the Review Board went through the Supreme Court judgement laid down in the Govt. OM incorporating necessary details for consideration of the proposals for remission alongwith the reports of the Jail Superintendents/ comments of District Magistrates and Superintendents of Police / opinion of the Convicting Confirming Courts.*

*After a threadbare discussion and upon satisfying itself on the merits/demerits of each proposal, the following decisions were taken by the Review Board:*

- 1. The Govt. OM No. HMB.143/2010/Pt-II/194 dated 06.10.2015 needs to be modified and re-written due to the implementation of the BNSS.*
- 2. The Review Board decided to strictly follow the directions given in the Supreme Court judgement which has also been given in the Govt.OM No.HMB.143/2010/Pt- II/194 dated 06.10.2015.*
- 3. The Review Board decided to consider the fewer proposals of remission and*

*only exceptional cases of life-convicts like terminally ill patients, cancer patients etc./who has completed the stipulated 14/ 20 years of imprisonment.'*

4. *The Review Board suggested that the good behaviour alone cannot be the criteria for premature release of life convicts.*
5. *The Review Board was of the opinion that prisoners with life sentence should not be recommended for release just after completion of 14/20 years and therefore shouldn't be considered for remission unless it falls in the exceptional category.*
6. *The Review Board also emphasized the crucial role of Superintendents of Jails in maintaining the smooth functioning of Jail and that they should have proper knowledge regarding the rules and conditions pertaining to Jails.*
7. *The Review Board clarified to the house that existing provisions of the Act(s) will always take precedence over the provisions of the Assam Jail Manuals and the Superintendents of Jails should not mechanically recommend cases for premature release only on the ground of completion of 14/ 20 years of actual imprisonment. Only those cases having sufficient relevant grounds should be recommended.*
8. *The Review Board was of the opinion that the Presiding Judge of the Sentencing Court should give recommendations along with reasons of recommendations while recommending cases for premature release.*
9. *The Review Board decided to recommend remission of the sentence of life convict AC-8876 Md. Alauddin Ali @ Pui from Central Jail, Guwahati, aged 53 years, who is suffering from cerebrovascular issues making him paralyzed and is under treatment at Gauhati Medical College & Hospital.*

*After careful examination and much deliberations the Board decided to return the 32 (thirty two) proposals received for the year 2025 and 57 (fifty seven) proposals for the year 2026 to the O/o the I.G. Prisons, Assam with a direction to resubmit proposals after proper application of mind following the directions of Hon'ble Supreme Court of India.*

*The meeting ended with a vote of thanks from the chair.”*

**6.** A careful reading of the aforesaid minutes reveals that instead of undertaking an individualized assessment of the petitioner's case on its own merits, the Review Board adopted a generalized and wholesale approach in dealing with all the proposals placed

before it. The minutes do not disclose any discussion whatsoever pertaining to the petitioner individually. There is no reference to the petitioner's conduct in jail, the period of incarceration undergone by him, the remission earned, the report of the Jail Superintendent, the opinion of the convicting Court, the report of the District Magistrate or Superintendent of Police, or any other relevant factor germane to the exercise of remission jurisdiction.

**7.** At this stage, it would be apposite to refer to the scheme underlying the Office Memorandum dated 06.10.2015. The said Office Memorandum contemplates an individualized consideration of each case of premature release on the basis of relevant factors including the conduct of the convict, the period of incarceration undergone, the likelihood of reformation, the reports of the Jail authorities, the views of the District Administration and the opinion of the convicting Court. The entire framework of the Office Memorandum is therefore founded upon a case-specific assessment and not upon generalized assumptions applicable to an entire class of convicts. Relevant clauses of the Office Memorandum are reproduced herein below for ready reference:-

*“Government of Assam  
Home Department*

*No. HMB.143/2010/PT-II/194 Dated Dispur, the 6<sup>th</sup> October, 2015*

OFFICE MEMORANDUM

*Subject. Remission of Sentences of Life Convicts.*

*The issue of evolving a uniform policy for granting remission of sentences to life convicts and all other convicts sentenced to imprisonments for more than 14 years in aggregate has been engaging the attention of the Govt. for quite sometime. The power of remission of sentences has been given under the Article 161 of the Constitution and Sections 432, 433 and 433 (A) of the Cr PC, 1973. The Rule 571 of the 'Assam Jail Manual' has provided the guidelines in this regard. In this regard the Hon'ble Supreme Court after hearing the Criminal Appeal No.490-91 of 2011 ordered on 20th November, 2012 as follows.*

*"There is a misconception that a prisoner serving a life sentence has an*

*indefeasible right to release on completion of either fourteen years or twenty years of imprisonment. The prisoner has no such right. 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 Cr PC. which in turn is subject to the procedural checks in that Section and the substantive check in Section 433-A of the Cr PC.*

*The grant of remission is statutory. However to prevent its arbitrary exercise, the legislature has built in some procedural and substantive checks in the statute. These need to be faithfully enforced.*

*Remission can be granted under section 432 of the Cr PC in the case of a definite term of sentences. The power under this section is available only for granting "additional" remission, i.e. for a period over and above the remission granted or awarded to a convict under the Jail Manual or other statutory rules. If the term of sentence is indefinite (as in life imprisonment), the power U/S 432 of Cr PC. can certainly be exercised but not on the basis that life imprisonment is an arbitrary or notional figure of twenty years of imprisonment.*

*Before actually exercising the power of remission under Section 432 of the Cr P.C. the appropriate Government must obtain the opinion (with reason) of the presiding judge of the convicting or confirming court. Remission can, therefore, be given only on a case-by-case basis and not in a wholesale manner".*

*The Hon'ble Gauhati High Court has also suggested that while granting remission in respect of life convicts factors governing such consideration should be the age of the convicts, the physical strength of the individual so as to assess the danger that an individual is likely to pose in the society in the event of his release. Further, it was also opined that the prisoner who have become frail or suffering from terminal diseases, prima-facie would not pose any threat to the society and therefore such cases should be considered accordingly.*

*In view of the position stated above the Governor of Assam is pleased to lay down the following policy for consideration of the prayer of life convicts and other convicts sentenced to more than 14 years in aggregate in the state of Assam:*

- 1. All applications made by a convict or on his behalf for remission of sentence should be submitted to the Superintendent of the Jail. The later in turn will take steps to forward the same to the Presiding. Judge of the convicting or confirming court along with the history ticket copy of the judgments, descriptive roll, report from the District Magistrate and the Superintendent of Police of the district of the convict's conduct, report of the Medical Board in case of old-infirm and terminally ill convicts for his opinion (with reason) about granting of remission.*

- 2. No application shall normally be entertained for remission of life sentence before completion of 14 years of imprisonment including the period of remission earned. But where a sentence of imprisonment for life is imposed on conviction*

*of a person for an offense for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted U/S 433 Cr. PC into one of imprisonment of life, case of such person shall not be considered unless he/she had served at least 14 years of actual imprisonment. However, in exceptional cases where prisoner is more than 80 years in age or infirm/frail or is suffering from terminal diseases, the application may be processed even if he/she has not completed 14 years of Imprisonment as stated above.*

*3 In cases where convicting court is a district court, the concerned Superintendent of Jail will obtain opinion/with reasons from the convicting court and submit the proposal of remission to Inspector General of Prisons. In cases where the convicting or confirming court is the High Court, the Inspector General of Prisons will obtain opinion/ with reasons from the High Court.*

*4 The Presiding Judge of the convicting or confirming court will record his/her opinion/with reasons and return the proposal to the Superintendent of the concerned Jail or Inspector General of Prisons, Assam as the case may be. The Superintendent of the concerned Jail shall submit to the Inspector General of Prisons, Assam all proposals for remissions twice in-a-year (during the months of July and January).*

*5. Inspector General of Prisons, Assam after his consideration, will submit the proposal of remission to the Government of Assam along with his recommendations.*

*6. The State Government shall examine the proposal received from Inspector General of Prisons along with the opinion of the Presiding Officer of the convicting or confirming court, as the case may be. While taking decision, the State Government shall have regard in respect of the following class of prisoners:*

*(a) Convicts who are older than 75 years, convicts who have become frail and infirm or are suffering from terminal diseases and prima facie would not pose any threat to the society as per finding of the Medical Board.*

*(b) Convicts who have spent their imprisonment with excellent track record of discipline, conduct and hard work.*

*1. Remission of sentences may be granted by the Government of Assam with or without conditions after considering the nature of the crime. While doing so the State Govt. shall also take into consideration whether remission granted could have adverse effect in the society or shall be detrimental to the interest of the State. The conditions of refuse shall be clearly stated in the order of remission.*

*8. Remission proposals shall be decided case-by-case on merit. No decision in this regard shall be taken on a wholesale manner.*

*9 Proposal of remission rejected by the Government of Assam, after due consideration should not be resubmitted before expiry of 2 years from the date*

*of rejection except where the person is more than 80 years in age or terminally ill.*

*The above procedure will be subject to order of the Hon'ble Supreme Court dated 23.07.2015 in Writ Petition No.48/2014.*

*Sd*

*M.G.V.K. Bhanu*

*Addl. Chief Secretary to the Government of Assam  
Home & Political Department*

*Memo No. HMB. 143/2010/PT-II/194-A*

*Dated Dispur, the 6th October, 2015”*

**8.** It is thus evident from Clause-8 of the aforesaid Office Memorandum that remission proposals are required to be decided case-by-case on merits and that any decision in this regard in a wholesale manner is expressly impermissible. Ironically, while the Review Board purported to rely upon the Office Memorandum dated 06.10.2015 and the principles laid down by the Apex Court, the procedure actually adopted by it stands in direct conflict with Clause-8 of the very same Office Memorandum.

**9.** However, the minutes of the Review Board meeting dated 19.03.2026 reveal that instead of examining the merits and demerits of the petitioner's case independently, the Board proceeded upon broad policy considerations that only "exceptional cases" should be considered and that life convicts should ordinarily not be recommended for premature release upon completion of 14/20 years. The Review Board appears to have misconstrued the Office Memorandum by treating "exceptional categories" such as terminal illness and extreme frailty as the governing rule rather than as enabling exceptions. The policy nowhere stipulates that only such exceptional cases are eligible for consideration after completion of the stipulated period of incarceration. Such an approach is directly contrary to the spirit and scheme of the Office Memorandum dated 06.10.2015, which admittedly continues to hold the field.

**10.** Significantly, although the Review Board itself observed that the said Office Memorandum requires modification or re-writing owing to the implementation of the

BNSS, admittedly no such modification or amendment has yet been brought into force. Consequently, so long as the Office Memorandum remains operative, the authorities are bound to act strictly in accordance therewith. Once the State itself formulates a remission policy prescribing identifiable parameters for consideration, an eligible convict acquires a legitimate expectation that his case would receive fair, individualized and reasoned consideration in accordance with such policy.

**11.** This Court further finds that despite availability of extensive materials concerning the petitioner, there is absolutely no indication of application of mind to the petitioner's individual case. The report of the Superintendent, District Jail, Mangaldai specifically records that the petitioner had completed the requisite period of incarceration prescribed under the prevailing policy; that he had earned remission of 1830 days; that his conduct and character during incarceration were found satisfactory; that he had not indulged in any jail rule violation activity; and that the requisite reports from the District Magistrate, Superintendent of Police and the convicting Court had been received. The records further reveal that except for one instance of re-capture during annual leave, no other adverse material has been brought on record against the petitioner.

**12.** Yet, despite the aforesaid materials being available before the authorities, the minutes of the Review Board are conspicuously silent as regards any assessment of the petitioner's suitability for remission. There is no discussion as to why the favourable materials placed on record were found insufficient. No reasons have been assigned as to why the petitioner was found disentitled to consideration. The requirement of recording reasons is not an empty formality. Reasons constitute the live link between the materials on record and the conclusion arrived at. In the absence of any discernible reasons reflecting consideration of the petitioner's individual case, the impugned exercise becomes manifestly arbitrary. The decision-making process is therefore vitiated not only by failure to consider relevant materials but also by consideration of irrelevant and generalized factors de hors the governing policy.

**13.** The right of a convict to have his case for remission considered in a fair, reasoned and individualized manner flows from the constitutional mandate of fairness and non-arbitrariness embodied under Articles 14 and 21 of the Constitution of India. The Apex Court in ***Re: Policy Strategy for grant of bail with Special Leave Petition (Crl.) No.529/2021*** in ***Suo Motu Writ Petition (Crl.) No.4/2021*** emphasized that decisions affecting personal liberty cannot be reduced to mechanical or ritualistic exercises and must reflect due application of mind to the individual facts of each case. Though rendered in the context of bail, the underlying principle equally governs the exercise of remission jurisdiction, which directly concerns the liberty of a convict. Relevant paragraphs of the aforesaid judgment of the Apex Court are reproduced hereunder for ready reference.

*“17) The power to grant premature release must be exercised in a fair and reasonable manner. It affects the convict's liberty guaranteed under Article 21 of the Constitution. Therefore, the requirement of recording reasons either for granting or rejecting the prayer for permanent remission will have to be read into the provisions of Section 432 of the CrPC and Section 473 of the BNSS. Principles of natural justice must be read into the provisions of Section 432 of the CrPC. In any case, in the case of *Bilkis Yakub Rasool v. Union of India* [(2024) 5 SCC 481], in paragraph 222.8, this Court held that the reasons for grant or refusal of remission should be clearly delineated in the order. Therefore, the requirement to record reasons exists. Brief reasons must be recorded, which are sufficient to enable the convict to understand why his prayer for remission has been rejected. This enables him to challenge the order of rejection.*

*18) Furthermore, it follows that the order passed by the appropriate Government of either granting or rejecting the prayer for remission must be communicated to the convict. If the prayer is refused, while providing a copy of the order to the convict, he must be informed that he has a right to challenge the order. A copy of the order rejecting the prayer must be immediately provided to the Secretary of the District Legal Services Authority so that legal aid can be offered to the prisoner to challenge the order.”*

**14.** In the present case, the records do not disclose even the bare minimum consideration of the petitioner’s individual circumstances. Rather, the petitioner’s case

appears to have been rejected as part of a generalized exercise founded upon broad observations applicable to all convicts alike. Remission jurisprudence cannot be permitted to degenerate into an exercise of broad categorization divorced from individual facts. The law requires consideration of the individual convict, not merely the category into which he may be placed. Such an approach not only defeats the very object of the Office Memorandum dated 06.10.2015 but also renders the decision-making process arbitrary and unsustainable in law.

**15.** Ms. Barman, learned Government Advocate, fairly submits that in terms of the existing Office Memorandum, the case of the petitioner ought to have been independently considered on merits. She, however, submits that since the rejection order per se is not under challenge before this Court, this Court may refrain from entering into the validity of the minutes of the Review Board.

**16.** This submission, though attractive at first blush, cannot detain this Court. It is trite that procedural technicalities cannot be permitted to overshadow substantive justice, particularly where the issue concerns personal liberty. The petitioner approached this Court complaining that his case had not been considered at all. During pendency of the proceedings, the State produced the decision of rejection before this Court. Once the materials forming the basis of rejection have been placed on record and examined by this Court, relegating the petitioner to institute yet another proceeding challenging the rejection order separately would merely prolong the injustice already suffered by him. To drive the petitioner to yet another round of litigation on a purely technical ground, despite the entire decision-making record having been placed before this Court, would amount to sacrificing substantive justice at the altar of procedural formality.

**17.** The powers of a writ Court under Article 226 of the Constitution are sufficiently wide to reach injustice wherever it is found. In ***Dwarka Nath -Vs- Income Tax Officer, Special Circle, D-Ward, Kanpur and another***, reported in ***AIR***

**1966 SC 81**, the Apex Court observed that the amplitude of jurisdiction under Article 226 is designed to ensure that injustice is remedied wherever discovered. Hyper-technical objections cannot be allowed to defeat the cause of justice where the materials on record themselves unmistakably reveal arbitrariness and absence of application of mind.

**18.** The infirmity in the present case is not merely that the petitioner's request for remission was rejected. The more fundamental defect lies in the fact that the petitioner's case was never truly considered on its own merits at all. The records reveal absence of any individualized assessment and complete non-application of mind to the relevant factors governing remission. Such a decision-making process cannot withstand judicial scrutiny under Article 226 of the Constitution of India.

**19.** Keeping the aforesaid principles in view, this Court is of the considered opinion that the petitioner's claim for remission has not received an individualized consideration in terms of the Office Memorandum dated 06.10.2015 and the governing principles laid down by the Apex Court. The materials on record rather indicate that the petitioner's case was dealt with as part of a generalized exercise undertaken by the Review Board, thereby defeating the requirement of fair and reasoned consideration inherent in the process of remission.

**20.** Consequently, this Court deems it appropriate to direct the respondent authorities to reconsider the case of the petitioner afresh and independently, strictly in accordance with the prevailing Office Memorandum dated 06.10.2015 and the applicable principles governing remission, uninfluenced by the generalized observations contained in the minutes of the Review Board meeting dated 19.03.2026, within a period of 3 (three) months from the date of receipt of a certified copy of this order.

**21.** With the aforesaid observations and directions, the writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**