2026:CGHC:9207-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 108 of 2026

Rakesh Sahu S/o Ramgarib Sahu, Aged About 34 Years R/o Village Sonesilli, Police Station Gobranawapara District- Raipur, Chhattisgarh, Presently Lodged In Raipur Central, Jail Durg (C.G.) Since In Jail Through His Brother Rajesh Sahu S/o Ramgarib Sahu Aged About 43 Years R/o Village Sonesilly, Police Station Gobranawapara District- Raipur Chhattisgarh

... Petitioner(s)

versus

1. State of Chhattisgarh Through Additional Secretary, Home (Jail) Department, Government of Chhattisgarh, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur, (C.G.)
2. Director General (Prisons) And Rehabilitation Services), Jail Department, Jail Headquarters, Sector- 19, Nava Raipur, Atal Nagar, Raipur (C.G.)
3. Jail Superintendent, Raipur, Central Jail, Raipur (C.G.)
4. Collector, Raipur District- Raipur (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

2026:CGHC:9207-DB

For Petitioner	:	Ms. Aditi Singhvi, Advocate.
For Respondent/State	:	Mr. Priyank Rathi, Government Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

***Per* Ramesh Sinha, Chief Justice**

23.02.2026

1. Heard Ms. Aditi Singhvi, learned counsel for the petitioner. Also heard Mr. Priyank Rathi, learned Government Advocate, appearing for the State/respondents.

2. The present writ petition has been filed by the petitioner with the following prayers:

> *"10.1 The Hon'ble Court may kindly be pleased to quash the order dated 12.12.2025 (Annexure P/1) passed by the respondent authorities and direct the respondent State to prematurely release the petitioner, in accordance with law, in the interest of justice.*
>
> *10.2 This Hon'ble Court may kindly be pleased to grant any other relief as it may deem fit in the interest of justice."*

3. Learned counsel for the petitioner submits that the petitioner, along with 15 other co-accused persons, was tried for offences punishable under Sections 148, 302/149, 460, 323/149 and 342 of the Indian Penal Code (IPC). Vide judgment and order dated 17.10.2011

passed in Sessions Trial No. 38 of 2009 by the learned Additional Sessions Judge, Gariyaband, District Raipur (C.G.), the petitioner and the co-accused were convicted and sentenced to imprisonment for life (thrice) under Section 302/149 of the IPC, rigorous imprisonment for ten years under Section 460 of the IPC, along with other sentences under Sections 148, 323/149 and 342 of the IPC.

4. It is further submitted by the learned counsel for the petitioner that the petitioner, along with seven other co-accused, preferred criminal appeal bearing CRA No. 315 of 2012 before this Court, while the remaining eight co-accused preferred CRA No. 835 of 2011. This Court, vide judgment dated 08.11.2017, dismissed the appeal preferred by the petitioner and four similarly situated co-accused; however, CRA No. 835 of 2011 preferred by the other co-accused was allowed. The petitioner did not prefer any Special Leave Petition before the Hon'ble Supreme Court against the judgment dated 08.11.2017. The petitioner is presently lodged in Raipur Central Jail and, as of August 2025, has completed more than 21 years, 07 months and 04 days of imprisonment including remission (16 years and 9 months of actual imprisonment). As on date, he has completed more than 22 years of imprisonment including remission.

5. Learned counsel for the petitioner further contends that upon becoming eligible for consideration of premature release under the provisions of the Chhattisgarh Prison Rules, an opinion was sought from the learned Presiding Judge. Vide memo dated 15.04.2024, the learned Presiding Judge expressed no objection to the grant of

remission to the petitioner. It is further submitted that the petitioner's earlier application dated 08.05.2025 was rejected on the ground that his case could not be considered in view of the bar under Rule 358 of the Chhattisgarh Prison Rules, 1968, and the said rejection was communicated vide letter dated 19.05.2025. Aggrieved thereby, the petitioner preferred WPCR No. 379/2025, wherein this Court, vide order dated 16.07.2025, granted liberty to the petitioner to file a fresh application in light of the amended Rule 358 of the Rules, with a direction to the authorities to decide the same within six weeks. Pursuant thereto, the petitioner submitted a fresh application seeking premature release on the ground that he had completed more than 21 years of imprisonment including remission.

6. Learned counsel for the petitioner would submit that the said application was duly forwarded by the concerned authorities. Vide communication dated 15.10.2025, it was informed that the Senior Superintendent of Police, Raipur, had expressed no objection to the petitioner's premature release. It is further submitted that the petitioner has been released on parole on twelve occasions and there is no adverse report against him. He has surrendered within time on each occasion and his conduct in jail has been satisfactory. However, vide impugned order dated 12.12.2025, the respondent authorities rejected the petitioner's application on the ground that his case is hit by the bar under Rule 358(6)(ix) of the Chhattisgarh Jail Rules, 1968, and that he would be eligible for consideration only after completing 20 years of actual imprisonment. It is also submitted that despite seeking the same

under the Right to Information Act, 2005, the petitioner has not been furnished with copies of the opinions of the Collector and the Superintendent of Police.

7. Learned counsel for the petitioner submits that Rule 358(6)(ix) of the Chhattisgarh Jail Rules, 1968 provides that the case of a prisoner who is guilty of murder in two or more cases shall be considered only after completion of 20 years of actual imprisonment. It is contended that the impugned order is based on a misinterpretation of the said provision. In the present case, the petitioner has been convicted for the murder of three persons arising out of a single incident and a single sessions trial. The Rule contemplates conviction in two or more distinct cases and not multiple murders forming part of the same transaction. It is submitted that even on a plain and literal reading of Rule 358(6)(ix), the embargo applies only where a prisoner stands convicted in two or more separate cases of murder. The authorities have failed to examine this distinction and have rejected the application without due application of mind. The impugned order is bereft of reasons and reflects mechanical reliance on the Rule without proper interpretation.

8. Learned counsel for the petitioner further stated that while considering premature release, the authorities are required to examine relevant factors such as the nature of the offence, conduct of the prisoner in jail, possibility of reformation, and likelihood of recidivism. In the present case, the petitioner has already undergone more than 22 years of imprisonment including remission, has maintained satisfactory conduct, and has been granted parole twelve times without any breach

of conditions. These relevant factors have not been duly considered. The rejection of his application solely on an erroneous interpretation of Rule 358(6)(ix) renders the impugned order arbitrary and unsustainable.

9. *Per contra*, learned State counsel submits that the petitioner stands convicted for three counts of murder under Section 302/149 of the IPC and the gravity of the offence is extremely serious. It is contended that Rule 358(6)(ix) must be construed keeping in view the object of the Rule, which is to impose a stricter standard in cases involving multiple murders. According to the State, conviction for murder of more than one person, even if arising out of a single case, justifies application of the embargo contemplated under the Rule. It is further submitted that the petitioner has not yet completed 20 years of actual imprisonment, and therefore, the rejection of his application is in accordance with the Rules.

10. We have heard learned counsel for the parties and have carefully perused the pleadings, annexures and the material available on record.

11. The controversy in the present petition centers around the interpretation of Rule 358(6)(ix) of the Chhattisgarh Jail Rules, 1968, which stipulates that the case of a prisoner “who is guilty of murder in two or more cases” shall be considered only after completion of 20 years of actual imprisonment.

12. The language of the Rule is clear, explicit and admits of no ambiguity. The expression employed is “in two or more cases.” The Rule does not use the phrase “two or more murders.” The distinction is neither accidental nor insignificant. In criminal jurisprudence, a “case”

denotes a distinct prosecution arising out of a separate FIR or occurrence and culminating in a separate trial. By consciously using the words “two or more cases,” the rule-making authority has restricted the embargo to prisoners convicted in two or more distinct prosecutions for murder. It is not open to the executive to expand the scope of the Rule by substituting or reading into it words that are not employed.

13. In the present matter, it is not in dispute that the petitioner was tried and convicted in a single sessions trial arising out of one incident. Though he has been convicted for three counts of murder, the same arise out of a single transaction forming part of one case. Therefore, the essential precondition for invoking Rule 358(6)(ix), namely conviction in “two or more cases,” is not satisfied. The interpretation adopted by the respondent authorities equates “two or more cases” with “multiple murders,” which amounts to rewriting the Rule and travelling beyond its plain language. Such an approach is impermissible in law.

14. It is trite that executive authorities exercising statutory powers must act strictly within the confines of the governing Rules. They cannot enlarge, curtail or modify the scope of a provision by administrative interpretation. The impugned order dated 12.12.2025 proceeds on a manifestly erroneous construction of Rule 358(6)(ix) and, on that ground alone, is liable to be set aside.

15. Even otherwise, the material on record clearly establishes that the petitioner has undergone more than 22 years of imprisonment including remission and more than 16 years and 9 months of actual incarceration; the learned Presiding Judge has recorded no objection to the grant of

remission; the Senior Superintendent of Police, Raipur has also conveyed no objection; the petitioner has been released on parole on twelve occasions and has surrendered punctually each time without misuse of liberty; and his conduct in jail has consistently been reported as satisfactory, with no adverse material indicating any likelihood of recidivism. The Hon'ble Supreme Court in ***State of Haryana v. Jagdish***, reported in ***(2010) 4 SCC 216***, has held that a convict has a right to be considered for premature release in accordance with the applicable policy and that such consideration must be fair, reasonable and in terms of the prevailing Rules. Similarly, in ***Laxman Naskar v. State of West Bengal***, reported in ***(2000) 7 SCC 626***, the Hon'ble Supreme Court laid down that while considering premature release, the authorities must examine factors such as the nature of the offence, conduct of the prisoner in jail, and the likelihood of his reverting to criminal activities. The petitioner's case satisfies these parameters.

16. The philosophy underlying premature release is reformative rather than retributive. Long incarceration coupled with demonstrated good conduct and positive reports from competent authorities entitles a prisoner to objective and fair consideration under the applicable Rules. Once the statutory bar is found inapplicable, and the relevant authorities have not expressed any adverse opinion, denial of premature release on a misconceived interpretation of the Rule amounts to arbitrariness and offends the mandate of Article 14 of the Constitution of India.

17. The impugned order does not disclose independent application of mind to the petitioner's conduct, length of incarceration or prospects of

rehabilitation. It rests solely on an erroneous understanding of Rule 358(6)(ix). The order, therefore, cannot be sustained in law.

18. In view of the foregoing discussion, the impugned order dated 12.12.2025 is quashed and set aside; it is declared that Rule 358(6)(ix) of the Chhattisgarh Jail Rules, 1968 is not attracted to the petitioner's case as his conviction arises out of a single case; and, considering his long period of incarceration, satisfactory conduct, favorable opinions of the competent authorities and absence of any statutory embargo, this Court holds that the petitioner is entitled to the benefit of premature release. The action of the respondent authorities in denying such benefit on an erroneous interpretation of the Rule is arbitrary and violative of Article 14 of the Constitution of India, as explained in ***E.P. Royappa v. State of Tamil Nadu***, reported in ***(1974) 4 SCC 3***.

19. In view of the foregoing discussion and for the reasons recorded hereinabove, the impugned order dated 12.12.2025 passed by the respondent authorities is hereby quashed and set aside.

20. It is declared that Rule 358(6)(ix) of the Chhattisgarh Jail Rules, 1968 is not attracted to the case of the petitioner, as his conviction arises out of a single sessions trial and not out of two or more distinct cases of murder.

21. Having regard to the fact that the petitioner has undergone more than 22 years of imprisonment including remission, has maintained satisfactory conduct in jail, has not misused the liberty granted to him during parole on twelve occasions, and has received no adverse opinion from the learned Presiding Judge as well as the Senior

2026:CGHC:9207-DB

Superintendent of Police, this Court is satisfied that the petitioner is entitled to the benefit of premature release under the applicable Rules.

22. Accordingly, the respondent authorities are directed to grant premature release to the petitioner and to release him forthwith from custody, if not required in any other case, subject to compliance with usual terms and conditions as may be imposed under the Chhattisgarh Jail Rules, 1968.

23. The writ petition stands **allowed**. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Brijmohan