



2026:CGHC:3490-DB
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 37 of 2026

Taran Prasad Sahu S/o Shri Baigaram Sahu, Aged About 41 Years R/o Village Bavanbudi, Police Station- Jaijaipur, District Sakti (C.G.)

... **Petitioner**

versus

1 - State of Chhattisgarh Through The Secretary, Home (Jail) Department, Mantralaya, Mahanadi Bhawan, Raipur, District Raipur C.G.

2 - The Director General of Prisons And Correctional Services Chhattisgarh, Head Quarter- Prisons And Correctional Services Chhattisgarh, Raipur, District Raipur C.G.

3 - The Jail Superintendent, Central Jail Bilaspur, District Bilaspur C.G.

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Rishi Rahul Soni, Advocate
For State/Respondents	:	Mr. Shaleen Singh Baghel, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

21.01.2026

1. Heard Mr. Rishi Rahul Soni, learned counsel for the petitioner as well as Mr. Shaleen Singh Baghel, learned Government Advocate, appearing on behalf of the State/respondents.



2. The present petition has been filed by the petitioner with the following relief(s):-

“10.1 The Hon'ble Court may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents for it's kind perusal;

10.2 The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction and quash/set-aside the order dated 25.09.2025 (Annexure P/1) issued by the Learned 1 Additional Session Judge Sakti, District- Janjgir-Champa (C.G.);

10.3 The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction commanding the respondents to put/present the case of the petitioner for remission of rest part of sentence (in other words for pre mature release) under section 473 of Bharatiya Nagrik Suraksha Sanhita 2023/432 of the Code of Criminal Procedure 1973 before the Learned 1 Additional Session Judge Sakti, District Janjgir-Champa (C.G.) for fresh consideration and for giving fresh opinion under section 473(2) of Bharatiya Nagrik Suraksha Sanhita 2023/432(2) of the Code of Criminal Procedure 1973 and the learned sentencing Court may kindly be directed to provide opinion accompanied with adequate reasoning after taking into consideration the relevant factors as laid down in Laxman Naskar Vs. Union of Indian reported in (2000) 2 SCC 595;

10.4 The Hon'ble Court may kindly be pleased to



issue a suitable writ, order or direction commanding the respondents to consider and decide the case of the petitioner for remission of rest part of sentence as early as possible preferably within a period of 30 days or within any other suitable period; and

10.5 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner. ”

3. Brief facts of the case, in a nutshell, are that the petitioner is a prisoner presently lodged in Central Jail, Bilaspur (Chhattisgarh). He remained in judicial custody from 12.07.2010 to 06.08.2020 and thereafter has again been continuously in custody since 25.01.2021. The custody particulars stand duly substantiated by information furnished under the Right to Information Act, 2005.
4. The petitioner was tried in Sessions Trial No. 162/2010 and was convicted by judgment dated 07.12.2011 passed by the learned Additional Sessions Judge, Sakti, District Janjgir-Champa (C.G.), under Sections 323/34 and 302/34 of the Indian Penal Code, 1860. He was sentenced to undergo rigorous imprisonment for three months for the offence under Section 323/34 IPC and to undergo imprisonment for life along with fine of Rs.2,000/- for the offence under Section 302/34 IPC, with a default sentence of four months' rigorous imprisonment.
5. Aggrieved by the said judgment of conviction and sentence, the petitioner preferred Criminal Appeal No.145/2012 before this



Court, which came to be dismissed by judgment dated 17.07.2017, thereby affirming the conviction and sentence imposed upon the petitioner.

6. After having undergone substantial period of incarceration, the petitioner, in August 2025, submitted an application from jail seeking remission/pre-mature release of the remaining part of his sentence. In furtherance thereof, the respondent authorities, vide letter dated 22.08.2025, sought the opinion of the learned First Additional Sessions Judge, Sakti, under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
7. Pursuant to the said communication, the learned First Additional Sessions Judge, Sakti, District Janjgir-Champa, passed an order dated 25.09.2025 giving a negative opinion under Section 473(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, principally on the ground that the petitioner stands convicted under Section 302/34 IPC and, in view of Rule 358 of the Chhattisgarh Prison Rules, 1968, cases of life convicts are not to be placed before the Remission Board for pre-mature release.
8. It is the grievance of the petitioner that despite his application for remission having been pending since August 2025 and despite the lapse of considerable time after obtaining the opinion of the sentencing Court, no further steps have been taken by the competent authorities to decide his claim for remission. According to the petitioner, he is otherwise entitled to consideration for



remission under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 432 of the Code of Criminal Procedure, 1973, and the inaction of the respondents, allegedly influenced solely by the negative opinion of the sentencing Court, has resulted in the petitioner's application being left undecided, thereby causing serious prejudice to his statutory right of fair and timely consideration for pre-mature release.

9. Learned counsel for the petitioner submits that the opinion dated 25.09.2025 (Annexure P/1) rendered by the learned First Additional Sessions Judge, Sakti, District Janjgir-Champa (C.G.) under Section 473(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 432(2) of the Code of Criminal Procedure, 1973, is ex facie perverse, illegal and contrary to the settled position of law. The learned sentencing Court has proceeded on an erroneous assumption that the petitioner's case for pre-mature release is barred under Rule 358 of the Chhattisgarh Prison Rules, 1968, whereas neither the old nor the amended provisions of the said Rule impose any absolute prohibition on consideration of life convicts for remission. The negative opinion is thus founded on a misreading of the statutory Rules. It is further submitted that the learned sentencing Court has failed to consider relevant and material circumstances inasmuch as the petitioner has been granted parole on several occasions and has never misused the liberty so extended. The conduct of the petitioner during parole periods reflects his reformation and responsible behaviour, yet the



same has been completely ignored while giving the opinion under Section 473(2) BNSS / Section 432(2) CrPC.

10. Learned counsel would also submit that the impugned opinion has been rendered mechanically without recording any independent findings on the parameters laid down by the Hon'ble Supreme Court in ***Laxman Naskar v. Union of India [(2000) 2 SCC 595]***, namely, the impact of the offence on society, the probability of repetition of crime, the potential of the convict to commit offences in future, the utility of continued incarceration, and the socio-economic condition of the convict's family. The absence of consideration of these mandatory factors vitiates the opinion itself. It is contended that the opinion under Section 473(2) BNSS / Section 432(2) CrPC is not a mere procedural formality but has a determinative bearing on the decision of remission. The Hon'ble Supreme Court, in ***Ram Chander v. State of Chhattisgarh [(2022) 12 SCC 52]***, has categorically held that such an opinion must be supported by cogent and adequate reasons and cannot be mechanical or stereotype. The impugned opinion, being devoid of reasoning and reflective of non-application of mind, fails to satisfy the statutory requirement. The said legal position has been consistently reiterated by the Hon'ble Supreme Court in ***Jaswant Singh & Others v. State of Chhattisgarh [(2023) 17 SCC 297]*** as well as in ***Rajo @ Rajwa @ Rajendra Mandal v. State of Bihar [2023 SCC OnLine SC 1068]***.



11. Learned counsel further submits that similar views have been taken by this Court in ***Madari Abrar Ahmad v. State of Chhattisgarh (W.P.(Cr.) No. 755/2021 decided on 21.07.2022)*** and followed in ***Puniram v. State of Chhattisgarh [2023 SCC OnLine Chh 3883]***, wherein it has been held that remission proposals cannot be defeated on the basis of unreasoned or legally flawed opinions of the sentencing Court. It is lastly submitted that despite the petitioner's application for remission being pending since August 2025, no effective decision has been taken by the competent authority, apparently due to the erroneous negative opinion of the sentencing Court. Such inaction defeats the petitioner's statutory right to fair and timely consideration of his claim for remission under Section 473 BNSS / Section 432 CrPC.
12. Reliance is also placed on the order passed in ***Prem Lal Suryavanshi v. State of Chhattisgarh & Others (W.P.(Cr.) No. 532/2025 decided on 10.10.2025)***, which supports the petitioner's claim for proper consideration in accordance with law. Accordingly, it is submitted that the impugned opinion deserves to be set aside and the petitioner's case for pre-mature release be directed to be reconsidered strictly in accordance with the settled legal principles.
13. On the other hand, learned State counsel opposes the submissions of the petitioner and submits that the negative



opinion of the learned First Additional Sessions Judge, Sakti, District Janjgir-Champa (C.G.) is in accordance with law. It is contended that the petitioner has been convicted for a serious offence under Sections 302/34 and 323/34 IPC, and as per the provisions of Rule 358 of the Chhattisgarh Prison Rules, 1968, cases of life convicts are ordinarily not placed before the Remission Board. Learned State counsel further submits that the sentencing Court has considered all relevant factors and exercised its discretion judiciously, and no interference is warranted in the opinion given under Section 473(2) BNSS / Section 432(2) CrPC.

- 14.** We have heard learned counsel appearing for the parties at length and have carefully perused the documents, annexures, and records placed on file along with the writ petition.
- 15.** Upon anxious consideration of the submissions advanced by learned counsel for the parties, the material on record, this Court finds that the opinion dated 25.09.2025 rendered by the learned First Additional Sessions Judge, Sakti, District Janjgir-Champa (C.G.) under Section 473(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 432(2) of the Code of Criminal Procedure, 1973, is liable to be set aside. The opinion negating the petitioner's claim for pre-mature release/remission of the remainder of his sentence is found to be perverse, legally unsustainable, and in violation of settled law.



16. It is apparent that the learned sentencing Court proceeded on the erroneous assumption that the petitioner's case is barred from consideration under Rule 358 of the Chhattisgarh Prison Rules, 1968, whereas neither the old nor the amended provisions of the Rule impose an absolute prohibition on the consideration of life convicts for remission. Furthermore, the opinion fails to reflect independent application of mind to the relevant factors laid down by the Hon'ble Supreme Court in **Laxman Naskar** (supra), which include: the nature and gravity of the offence and its impact on society; the probability of recurrence; the potential of the convict to commit offences in future; whether any useful purpose is being served by continued incarceration; and the socio-economic condition of the convict's family. The Court also notes that the petitioner has consistently exhibited responsible conduct during periods of parole, a fact which has been entirely ignored in forming the negative opinion.
17. The law is well settled that the opinion under Section 473(2) BNSS / Section 432(2) CrPC is not a mere formality but has a determinative effect on the decision regarding remission. As observed by the Hon'ble Apex Court in **Ram Chander** (supra), **Jaswant Singh** (supra), and subsequent judgments, such an opinion must be accompanied by adequate reasoning. Mechanical, stereotyped, or unreasoned opinions defeat the very purpose of the statutory scheme and render the exercise of discretion by the competent authority ineffective.



18. In view of the foregoing, the negative opinion dated 25.09.2025 is hereby set aside. The respondents are directed to reconsider the petitioner's application for pre-mature release/remission of the remainder of his sentence afresh, strictly in accordance with law, taking into account:

- The petitioner's conduct and behaviour during incarceration;
- The petitioner's conduct during parole periods and demonstration of reformation;
- All factors laid down in **Laxman Naskar** (supra) and subsequent judgments; and
- Any other relevant circumstances which may assist in a fair and just assessment.

19. The reconsideration shall be undertaken expeditiously and a speaking and reasoned order shall be passed by the competent authority within four weeks from the date of receipt of the certified copy of this order. While reconsidering, the respondents shall exercise their discretion afresh and shall not be influenced by the earlier negative opinion of the learned sentencing Court. The petitioner shall be communicated the decision forthwith.

20. Accordingly, the writ petition is **allowed**, the impugned order dated 25.09.2025 (Annexure P/1) is set aside, and the respondents are directed to comply with the above directions.

21. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice