



IN THE HIGH COURT OF KARNATAKA

AT DHARWAD

DATED THIS THE 22ND DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 107708 OF 2024 (GM-POLICE)

BETWEEN:

DEEPA ANGADI
W/O SIDDAPA CTP 0898
DAUGHTER IN LAW OF MALLAVVA CTP 0906
SISTER IN LAW OF SIDLINGAPPA @
MUDAKAPPA CTP 0899
AGED ABOUT 37 YEARS
R/O NO 002, SRI KESHAVA EVERJOY
SHREYA APARTMENT, 2ND MAIN. A G S LAYOUT
BEHIND AKSHARA INTERNATIONAL SCHOOL
A G S LAYOUT, SUBRAMYAPURA,
BENGALURU, KARNATAKA 560061

...PETITIONER

(BY SMT. UMME SALMA., ADVOCATE FOR
SRI. SIRAJUDDIN AHMED., ADVOCATE)



AND:

1. STATE OF KARNATAKA
HOME DEPARTMENT
THROUGH PRINCIPAL SECRETARY
VIDHANA SOUDHA
BELGAVI-590001.
2. CHIEF SUPERINTENDENT
CENTRAL PRISON
BELGAVI-590001.
3. THE LIFE CONVITS RELEASE COMMITTEE



REPRESENTED BY ITS
CHAIRMAN AND PRINCIPAL SECRETARY
HOME DEPARTMENT
VIDHANA SOUDHA
BELGAVI-590001.

4. THE DIRECTOR GENERAL OF POLICE
PRISON AND CORRECTIONAL SERVICES
SHESHADRI ROAD
BELGAVI-590001.

...RESPONDENTS

(BY SRI. SHARAD V. MAGADUM., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF MANDAMUS DIRECTING RESPONDENT NO.2 AND 3 TO GRANT REMISSION PETITIONER HUSBAND DAUGHTER IN LAW AND SISTER IN LAW AS PER THE POLICY STOOD AT THE TIME OF THEIR ADMISSION IN THE LIGHT OF JUDGMENT OF HON'BLE APEX COURT IN SHARAFAT ALI'S CASE AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The Petitioner is before this Court seeking for the following reliefs:

- a. *Issue a writ of mandamus, directing Respondent No.2 and 3 to grant remission Petitioner husband, daughter in law and sister in law as per the policy stood at the time of their admission in the light of judgement of Hon'ble Apex Court in Sharafat Ali's case.*
- b. *Consider the Release of petitioner husband, daughter-in-law ad sister in law after remission.*



c. Pass any other order(s) which this court may deem fit and proper under the facts and circumstances of the case, in the interest of justice.

2. The petitioner, who is the wife of Siddappa (CTP-0898), daughter-in-law of Mallavva (CTP-0906) sister-in-law of Sidlingappa @ Mudakappa (CTP-0811) is before this Court seeking for remission of the sentence of the aforesaid three detenues.
3. The submission of Ms. Umme Salma, learned counsel for the Petitioner is that:
 - 3.1. All three detenues had been sentenced for life imprisonment of 21 years in S.C.No.28/2006 vide judgment at 16.12.2008 for offences under Section 302, 114 read with 149 of IPC.
 - 3.2. Siddalingappa has undergone incarceration for total period of 17 years 4 months and 12 days; Siddappa has undergone incarceration for total period of 18 years 2 months and 28 days and Mallavva has undergone incarceration of 15 years 6 months 13 days as on 1.4.2023.



3.3. An application having been filed for remission of the sentence of the aforesaid three persons has been rejected on the ground that remission is not a matter of right to any prisoner under sub-rule (v) of Rule 164 of the Karnataka Prisons and Correctional Services Manual, 2021.

3.4. Her submission is that merely because an accused is sentenced to imprisonment for life of 20 years or more would not disentitle such detainee from remission when the order of sentence does not make that the condition or part of the sentence.

3.5. In this regard, she relies upon the decision of the Hon'ble Apex Court in the case of **Asfaq vs. State of Rajasthan and others**¹ more particularly Para 24 thereof which is reproduced hereunder for easy reference:

24. *Applying these principles in the case at hand, on the date of conviction (24.05.2001), it is the*

¹ Civil Appeal No.10464/2017



pre-2002 policy that was applicable. The relevant extract is as follows;

"[...] the State Government has decided that to give remission to the accused who has been sentenced to life imprisonment and subsequently to release him from prison, life imprisonment should be considered as imprisonment for 20 years and the following procedure should be adopted in the matter of releasing the prisoners sentenced for life imprisonment.

1. Under the Section 429 of the Code of Criminal Procedure, 1973 Act No.2 of 1974, the prisoner who gets life imprisonment will not get the benefit of presumptive report (ambiguous) i.e. in the case in which he has been sentenced to life imprisonment, the period spent in jail during the period of enquiry, investigation and disposal of the case and before the date of conviction may be deducted from the imprisonment of 20 years.

2. Upon conviction, if any person has been sentenced to imprisonment for life for an offense for which one of the punishments is death or if the death sentence has been commuted to life imprisonment under Section 433 of the Code of Criminal Procedure, 1973, and where such sentence of imprisonment for life has been awarded on or after 18.12.1978, such prisoner shall be released from prison only if-

a. He has spent a period of 14 years in prison from the date of conviction.

b. The total of the period of remission and imprisonment in 20 years

[...]"

It is pertinent to point out that in the old pre-2002 policy, there is no mention of any ineligibility criteria, much less one that is analogous to Rule 529(iv)(b) of the 2002 policy, which was cited by the Remission Board in its rejection of the petitioner's application on 20.04.2023



3.6. On that basis, she submits that there is no embargo on a detenue sentenced to imprisonment for life to be released by remitting the sentence.

4. Learned AGA on instructions would submit that:

4.1. remission under Section 63 (2) (e) of the Karnataka Prisons Act, 1963, is not a matter of right, and it is left to the total discretion of the Respondent authorities and exercising such discretion, the application for remission filed has been rejected.

4.2. The sentence of imprisonment in the present matter is for a specific term of 21 years, exceeding 20 years, being the term of life imprisonment, and as such, the petitioner would not be entitled to remission of the sentence.



5. Heard Smt.Umme Salma, learned counsel on behalf of Sri.Sirajuddin Ahmed, learned counsel for the Petitioner and Sri.Sharad V.Magadum, learned AGA for Respondents and perused papers.

6. The points that would arise for consideration are:

1)Whether if the order of sentence is for a specified term, the detainee would not be entitled for remission, and would have to complete the entire term of sentence?

2)Whether on account of the sentence being a life sentence of 20 years or more the detainee would not be entitled for remission?

3)What order?

7. I answer the above points as under:

8. **Answer to Point No.1: Whether if the order of sentence is for a specified term, the detainee would not be entitled for remission, and would have to complete the entire term of sentence?**

8.1. The submission of learned AGA in this regard is that since the term of sentence is 21 years more than 20 years being the life sentence, the detainee would not be entitled for remission.



8.2. In this regard, reliance is placed on Rule 164 of Karnataka Prisons and Correctional Services Manual, 2021 is reproduced hereunder for easy reference:

164. Under Section 63(2)(e) of the Karnataka Prisons Act, 1963, to regularise the shortening of sentence by the grant of remission;

- i. Remission system aims at the reformation of a prisoner. The scheme is intended to ensure prison discipline and good conduct on the part of the prisoners and to encourage them to learning and better work culture, with the prospect of their early release from prison as an incentive;
- ii. Remission is a concession, which can be granted to the convict prisoners by the State Government or Director General of Prison or Chief Superintendent or Superintendent of Prison. This concession is subject to subsequent withdrawal or forfeiture or revocation by the State Government or Director General of Prison or Chief Superintendent or Superintendent of Prison;
- iii. Remission is intended to be an incentive for good behavior and work. It should be granted on the basis of an inmates behaviour, work and general response to various institutional activities;



- iv. The sentence of all prisoners sentenced to imprisonment for life or to more than 20 years imprisonment in aggregate or to imprisonment for life and imprisonment for terms exceeding in the aggregate 20 years, shall for the purposes of these Rules be deemed to be sentence of imprisonment for 20 years;
- v. Remission is not the matter of right for any prisoner.

8.3. A perusal of sub-rule (1) of Rule 164 would indicate that the remission system aims at the reformation of a prisoner and the scheme is intended to ensure prison discipline and good conduct on part of the prisoners and to encourage them to learning and better work culture, with the prospect of the early release from prison as an incentive which would directly imply that if the detainee during incarceration behaves well and were to show good conduct and discipline then he would be entitled to remission and this aspect of remission is held out as a carrot for the detainee



so that he behaves properly with discipline and good conduct with the hope of being released early by remitting the sentence.

8.4. A perusal of sub-rule (2) of Rule 164 would indicate that remission is a concession which can be granted to the convict/prisoner by the State Government or Director General of Prison or Chief Superintendent or Superintendent of Prison but is also subject to revocation or forfeiture on certain events occurring.

8.5. Sub-rule (iv) of Rule 164 would indicate that the sentences of all prisoners sentenced to imprisonment for life or to more than 20 years of imprisonment in aggregate shall be deemed to be a sentence of imprisonment for 20 years. Thus, whether the sentences is for 20 years or more it is treated as imprisonment for life.



- 8.6. A perusal of sub-rule (v) of Rule 164 would indicate that the remission is not a matter of right for any prisoner.
- 8.7. Apart from Rule 164, the other Rules under Chapter 13 deal with ordinary remission, special remission and remission by State Government, the method of calculation of the time period to be taken into consideration, maximum period of remission, etc.
- 8.8. The denial of the application of the detenus in the present matter has been made on account of the detenus being sentenced for imprisonment for a specific period of 21 years, which is more than 20 years.
- 8.9. Learned AGA as aforesaid, contending that until the said term is completed, the detenus would not be entitled to remission and in that regard, reliance has been placed on sub-rule (v) of Rule 164. The said Rule 164 having been extracted



and dealt with above, it is clear that there is no particular embargo under Rule 164 that if a sentence is for 20 years or more or even for a particular period more than 20 years, the detenue would not be entitled for remission.

8.10. In fact, what sub-rule (v) of Rule 164 indicates is only that remission is not a matter of right for any prisoner, thereby implying that remission can be granted at the discretion of the State Government or the Director General of Prisons or the Chief Superintendent or the Superintendent of Prison in terms of sub rule (ii) of Rule 164. Needless to say, the said discretion would have to be exercised judiciously in a proper manner.

8.11. The decision in ***Rajendra Mandal's case*** relied upon by the learned counsel for the petitioner would indicate that upon conviction if any person has been sentenced to imprisonment for



life for an offence for which one of the punishment of death or if death sentence has been commuted to life under Section 433 of Code of Criminal Procedure, such prisoner shall be released from prison only if he has spent 14 years in prison from the date of conviction, which would indicate that after a period of 14 years, remission could be offered to the detainee.

8.12. In the present case, though initially the detenus were sentenced to death. On an appeal in Criminal Appeal Nos . 2516, 2535 and 2536 of 2009, the same were modified and the detenus were sentenced to imprisonment for 21 years with a fine. Thus, though initially the sentence was one of death, subsequently, on an appeal, the same was modified to imprisonment for 21 years.



8.13. The said modified sentence does not impose a condition that the detainee shall not be released on parole or that no remission can be awarded to the detainees. When the judgment is silent on that, I am of the considered opinion that the benefit thereof would have to be provided to the detainee and as such, merely because there is a sentence of 21 years, it cannot be said that detainee will not be entitled for remission due to the sentence being for a fixed period in excess of 20 years.

8.14. Hence, I answer Point No.1 by holding that if the order of sentence is for a specified term, the detainee would be entitled for remission and would not have to complete the entire term of sentence, unless the sentence awarded makes it clear that the detainee shall not be entitled for premature release or remission or parole or the like.



9. **Answer to Point No.2: Whether on account of the sentence being a life sentence of 20 years or more the detenue would not be entitled for remission?**

9.1. The submission of learned AGA is that remission is not a matter of right for any prisoner and as such, the authorities have denied the remission. On enquiry as regards the conduct of the detenus, on instructions, learned AGA submits that the conduct has been satisfactory and that the detenus have not involved in any other offence during the course of their incarceration.

9.2. As referred to in answer to Point No.1 supra in terms of sub rule (1) of Rule 164, the remission system aims at the reformation of prisoner and remission is held out as a carrot to a prisoner to behave properly so that he may be released earlier than the sentence which has been awarded to him or her.



9.3. When such a promise is held out in terms of Rule 164, I am of the considered opinion that the State would have to comply with the said promise which has been held out and if the detenus/prisoner were to behave in a proper disciplined manner with good conduct, the time incarcerated would have to taken into consideration for the purpose of calculation of remission in terms of Chapter 13 of Karnataka Prisons and Correctional Services Manual, 2021.

9.4. Hence, I answer Point No.2 by holding that there is no particular embargo under sub-rule (v) of Rule 164 for grant of remission. What it only implies is that the detenue / prisoner would have to qualify the requirements for grant of remission which would have to be considered in a proper and judicious manner by the concerned authorities.



10. **Answer to Point No.3: What order?**

10.1. In view of my finding above, I pass the following:

ORDER

- i) The Writ Petition is ***allowed.***
- ii) Respondents are directed to reconsider the applications of the detenues without reference to or influenced by the order dated 21.8.2025 and if found qualified grant remission to the detenus aforesaid namely Siddappa (CTP-0898), Mallavva (CTP-0906) and Sidlingappa @ Mudakappa (CTP-0811) in terms of Chapter 13 of the Karnataka Prisons and Correctional Services Manual, 2021 within a period of two weeks from the date of receipt of a copy of this order.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**