

ITEM NO.21

COURT NO.13

SECTION II-E

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 855/2026

[Arising out of impugned final judgment and order dated 15-09-2023 in CRA No. 1239/2016 passed by the High Court of Gujarat at Ahmedabad]

MAHESH KUMAR DHISALAL JANGID

Petitioner(s)

VERSUS

STATE OF GUJARAT

Respondent(s)

IA No. 308946/2025 - CONDONATION OF DELAY IN FILING

IA No. 308947/2025 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 308948/2025 - EXEMPTION FROM FILING O.T.

Date : 16-03-2026 This matter was called for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) : Ms. Mahalakshmi Pavani, Sr. Adv.
Mr. Sumit Chander, Adv.
Mr. Ajeet Yadav, AOR
Mr. Prabhash Kumar Singh, Adv.
Mr. Gurdeep Chauhan, Adv.
Mr. Adarsh Pratap Singh, Adv.
Mr. Satya Narayan, Adv.
Ms. Shaurya Mishra, Adv.
Mr. Neeleshwar Panavi, Adv.
Ms. Prabisha Pradeep, Adv.
Ms. Drishti Chaudhary, Adv.

For Respondent(s) : Ms. Swati Ghildiyal, AOR
Mr. Rishi Yadav, Adv.

O R D E R

Heard learned counsel for the parties.

2. Our previous order dated 12.12.2025 indicated that the learned counsel for the State of Gujarat had taken the stand that as per

the policy of the State Government, the matter for premature release of the petitioner will now be considered.

3. Having regard to the aforesaid, the Court had given a long indulgence to the respondent-State of Gujarat by adjourning the matter for over three months to take such decision and had directed that the same be communicated to the Court before the next date of listing.

4. We indicate here that on the last date itself, i.e., 12.12.2025, the petitioner had already completed the minimum required period of incarceration for his case to be considered by the State under the said premature release policy.

5. Today, on a query to the learned counsel for the State of Gujarat, it is informed that as per now, the Competent Committee meets only four times a year, and the matter is now being processed and shall be placed before the said Committee.

6. At this juncture, we were provided with a copy of the circular relating to such policy dated 09.07.1992, by which the policy has been framed under Section 432 of the Code of Criminal Procedure, 1973 (as it then was), relating to premature release of convicts in such cases.

7. For the purpose of convenience and ready reference, the relevant paragraph of the aforesaid circular is reproduced hereinunder:

" For this, the Inspector General of Jail shall adopt below mentioned procedure. Those convict prisoners who have been imposed with the life imprisonment on or after 18/12/1978 when completes of set off then the Inspector

General of Jail shall conduct the procedure for early release of such convict prisoner, for this relevant District Police Officer, District Magistrate, Jail Superintendent and opinion of A.B. Committee (Advisory Board) shall be obtained and the Inspector General of Jail shall give his opinion with the copy of the nominal roll and along with a copy of the judgment passed in respect of that convict prisoner shall make a self explanatory recommendation to the government. Such recommendation shall be made to the government in such a manner that they can reach the government three months prior to the date of completion of 14 such years of imprisonment of such convict prisoner. The above policy of the government shall be brought to consideration of all the Members of the Jail Advisory committee so that at the time of making a recommendation in case of the convict prisoner who has been imposed with the punishment of life imprisonment on or after 18/12/1978, this policy shall be taken into consideration and that appropriate consistent recommendation can be made."

8. From the aforesaid, it is clear that the policy itself indicates that a person as and when he or she completes the said period, a final order has to be passed on that day, inasmuch as, the process is to be initiated three months prior to the date on which the person completes 14 years of imprisonment.

9. We need not reiterate the fact that the right for premature release is not a fundamental right, but it does take the nature of

a vested right in a prisoner, once the State Government exercises its discretion and frames a policy. However, in matters which relate to life and liberty of a person, the Constitutional Principles have to be invoked, for the reason that every day beyond the period which in law has been prescribed, and in the present case, a statutory law relating to the period of incarceration, the person would be considered to be in illegal custody and rightly so, the Government had directed that the process be started three months before the date on which the prisoner would be completing the 14 years of actual incarceration.

10. In the present case, in our order dated 12.12.2025, we had indicated that the petitioner had completed the requisite period and the learned counsel for the State had also indicated that the matter would now be considered and then we had granted more than three months time. Today also the stand being taken that the Committee is likely to take a decision soon, in our considered opinion, is absolutely unacceptable.

11. Accordingly, we could have initiated proceedings against all the concerned persons, right from the person who initiates the process till the person who actually/finally takes the decision. However, we refrain from doing so, for the present.

12. List the matter on top of the board on 07.04.2026.

13. It is further clarified that in future, if the above stipulation as per the policy itself is not implemented in its entirety and mandatorily, the same shall entail strict penal orders from this Court, including, but not limited to, initiation of *suo motu* contempt against all the persons who do not act in terms of

the policy or if the final order does not come latest by the day on which the convict completes 14 years of actual incarceration.

14. The present order be transmitted to the State of Gujarat through the Chief Secretary Gujarat for its strict compliance throughout the State.

15. We further indicate that if by the next date affidavit bringing on record the final order is not on record, the Chief Secretary and the Additional Chief Secretary/Secretary, Department of Home, State of Gujarat and also the Inspector General of Prisons, Gujarat shall be personally present in Court to show-cause as to why proceedings be not initiated against them for violation/non-compliance of this order.

(SACHIN KUMAR SRIVASTAVA)
COURT MASTER (SH)

(ANJALI PANWAR)
ASSISTANT REGISTRAR