



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Writ Petition No. 2288/2025

Mahendra Kumar, S/o Ram Ji, R/o Dhodhiya, Police Station
Anandpuri, District Banswara (Raj) (Presently Lodged At Central
Jail Udaipur)

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary Jaipur.
2. The District Collector, Banswara.
3. The Superintendent, Central Jail, Udaipur.

-----Respondents

For Petitioner(s)	:	Mr. Pravin Choudhary, Amicus Curiae Mr. Kalu Ram Bhati
For Respondent(s)	:	Mr. Deepak Choudhary, GA-cum-AAG

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE ANAND SHARMA**

Order

05/12/2025

1. The present letter petition filed by the convict-petitioner has been received from the Central Jail, Udaipur with the prayer for premature release of the convict-petitioner.
2. Since, it was a jail petition, therefore, this Court has appointed Mr. Praveen Kumar Choudhary as Amicus Curiae to plead on behalf of the convict-petitioner.
3. A detailed reply has been filed by the respondent-State. As per the reply, it has come on record that the convict-petitioner was convicted and sentenced vide judgment dated 28.02.2008 passed by learned Additional Sessions Judge (Fast Track), Banswara for life imprisonment under Section 302 of IPC. The



convict-petitioner has served sentence of almost 22 years including jail and State remissions.

4. The case of the convict-petitioner for premature release was placed before the Advisory Committee, however, the Advisory Committee in its meeting held on 02.01.2025 did not recommend the case of the convict-petitioner for premature release and the same was rejected. After rejection of the prayer for premature release, the present petition has been filed by the petitioner.

5. The principal ground of rejection of the prayer of the premature release of the petitioner was that the petitioner is mentally unstable person and since he is convicted for the murder of his father, therefore, there will be a threat to the family and further the family members have also not showed any willingness to accept him in the family.

6. In pursuance of the directions issued by this Court on 28.10.2025, Mr. Praveen Kumar Choudhary, learned Amicus Curiae along with Mr. Kalu Ram Bhati, Advocate have visited the Central Jail, Udaipur and met the convict-petitioner Mahendra Kumar. A report with respect to the mental state and other issues has been filed by the Amicus Curiae Mr. Praveen Kumar Choudhary, which reads as under:-

"A. That the petitioner is physically stable; however, due to underlying mental health concerns, the jail administration has been administering regular medical treatment. The petitioner is prescribed three tablets daily, one for proper sleep and two for mental health.

B. That a designated Nabarbandi (inmate) has been assigned to assist the petitioner in his daily routine. That we interacted with the designated





Nabarbandi (inmate) assigned to assist the petitioner, who stated that the petitioner's mental condition is presently stable. He adheres to instructions, takes prescribed medication consistently, and performs assigned tasks diligently. It is further noted that the petitioner has never engaged in any altercation and maintains a calm and composed demeanor with fellow inmates and staff.

C. That during personal interaction with the petitioner, he stated that he holds a Bachelor of Arts degree. He further verbally provided his brother Mohan's mobile number, which he recalled without the aid of any written reference, thereby indicating functional memory, cognitive clarity, and mental responsiveness.

D. That the petitioner expressed a sincere and repeated desire to reintegrate into society and lead a peaceful life post-release. He stated, "please send me home once," reflecting his emotional readiness and hope for rehabilitation. His demeanor and responses suggest that, with continued medication and familial support, he is capable of living a normal and stable life.

E. That during the interaction, the petitioner provided his brother's mobile number. Upon telephonic conversation with Mohan (petitioner's brother), it was confirmed that the family is willing and prepared to receive the petitioner and extend necessary care. That Mohan assured that they would come to the jail upon receiving intimation of his release.

F. That the jail administration, fellow inmates, and the petitioner's family members appeared pleased and supportive of the prospect of his early release. Their collective sentiment reflects a positive and



*conductive environment for the petitioner's
reintegration into society."*

7. As per the report submitted by the learned counsel, we feel that the mental condition of the convict-petitioner is stable and the brother of the petitioner Mohan has agreed to take him at his house and further, he has mentioned that he will take necessary care of his brother.

8. In the present case, the petitioner has undergone a sentence of more than 22 years and therefore, he is entitled for consideration for premature release as per the Rule 8(2)(i) of the Rajasthan Prisons (Shortening of Sentences) Rules, 2006 (hereinafter referred to as 'Rules of 2006'). The learned counsel submits that since the petitioner has actually served the sentence of more than 14 years and has earned remission of three years and nine months as per the notification dated 12.04.2024, therefore, the case of the petitioner is fit for release on premature basis.

9. The learned counsel submits that observations of the Advisory Board are not correct as the petitioner is in a stable state of mind and his brother Mohan has taken responsibility to take care of the petitioner and therefore, he has prayed that the application for premature release of the petitioner may be allowed.

10. Per contra, Mr. Deepak Choudhary, learned Additional Advocate General appearing for the respondent- State though has opposed the submissions made by the counsel for the petitioner, however, he is not in position to refute the report and the condition of the petitioner as stated by the learned counsel for the petitioner after having visited the jail where the petitioner has



been lodged. As far as the position of law is concerned, learned counsel for the state very fairly submitted that the case of the petitioner is falling within the zone of the consideration for release on premature basis.

11. We have considered the submissions made at the bar and carefully gone through the relevant record of the case.

12. The undisputed facts in the present letter petition are that the petitioner has undergone the sentence of more than 22 years out of which he has served actual sentence of 14 years and remission of three years and nine months and therefore, the case of the petitioner is fully fit for release on premature basis as per the Rules of 2006.

13. For brevity, the Rule 8(2)(i), 11 and 12, relevant for the adjudication of the issue in the present case, are reproduced as under:-

"8. Prisoners eligibility for consideration by the advisory Board.-

(2) Notwithstanding anything in sub-rule (1)

(i) a prisoner who has been sentenced-to imprisonment for life for an offence for which death penalty is one of the punishment provided by law or who has been sentenced. to death but his sentence has been commuted under Section 433 of Code of Criminal Procedure, 1973, into one of imprisonment for life, shall be considered only after he has served 14 years of actual imprisonment excluding remission but including the period of detention spent during enquiry, investigation or trial, on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.

11. Conditions for release.- *The Advisory board may recommend release of a prisoner conditionally or unconditionally whenever a prisoner is to be released*



prematurely. Stringent conditions shall be imposed on a prisoner recommended to be released conditionally if so accepted by the Government, and the prisoner so recommended for release shall be made to enter into a bond in Form-2.

12. Consideration by Government.-

(1) On receipt of the proceedings of the Advisory Board, and any other relevant paper the Government may order release of a prisoner in cases for which, having regard to all the circumstances of the case, it considers that the prisoner may be released without any harm or danger to the society and the victim and his family. The Government may, if so advised seek more information from any other source it deems fit in order to reach a considered decision.

(2) Government may accept or reject of a recommendation for the release a prisoner Provided that while issuing an Order of rejection in respect of a recommendation of premature release by an Advisory Board, it shall be sufficient for the Government to state in the said Order, that the matter has been considered in detail and the Order has been passed after taking all the relevant aspects into account.

(3) In case of a prisoner sentenced by Court-Martial the Government shall forward its recommendations to the Government of India for necessary orders."

14. A bare perusal of the Rules 8, 11 and 12 of Rules of 2006 clearly goes to show that a prisoner, who has completed actual sentence of 14 years in the case of conviction who is sentenced for life imprisonment and his jail remission is of two years and six months, is entitled for consideration for premature release.

15. In the present case, in view of the notification dated 12.04.2024, the period of State remission shall also be included while counting the jail remission period of two years and six





months. Therefore, in the present case, the actual remission period emerges into three years and nine months.

16. The reason for rejection of the application for premature release of the convict-petitioner by the Advisory Committee is not very convincing, specially in view of the report of the learned Amicus Curiae wherein it has come on record that mental condition of the convict-petitioner is stable and the brother of the petitioner Mohan has agreed to take him at his house and further, he is willing to take necessary care of his brother. Therefore, there is no threat to the family as such if the convict-petitioner is released on a premature basis.

17. In view of the discussion made above, the letter petition succeeds and the Advisory Committee's order dated 08.04.2025 is quashed and set-aside and the convict-petitioner is ordered to be released on premature basis.

18. Before parting with the judgment, we appreciate the efforts made by the Amicus Curiae as he visited Central Jail, Udaipur and taken pains to meet the convict-petitioner.

(ANAND SHARMA),J

(VINIT KUMAR MATHUR),J

34-GKaviya/-