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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21st August, 2025

+ W.P.(CRL) 3756/2023

NASIR MOHD SODOZEY @ AFTAAB AHMED @ ABDULLAH
.....Petitioner

Through: Mr. Akshay Bhandari, Mr. Anmol Sachdeva, Ms. Megha Saroa, Mr. Kushal Kumar and Mr. Janak Raj, Advocates.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Amol Sinha, ASC with Mr. Shitiz Garg, Mr. Ashvini Kumar, Ms. Chavi Lazarus, Mr. Nitish Dhawan and Ms. Sanskriti Nimbekar, Advocates for State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present petition under Article 226 of the Constitution of India, is directed against order dated 30th June, 2023 passed by the Sentence Review Board¹ whereby the Petitioner's request for premature release was rejected.
2. The Petitioner is a convict serving life imprisonment in FIR No. 658/1994 registered under Sections 364A read with 120B, 121A, 122, 124 of Indian Penal Code, 1860², 3(1)(ii) Terrorist and Disruptive Activities

¹ "SRB/the board"

² "IPC"



(Prevention) Act, 1987³ and Section 14 of the Foreigners Act at P.S. Connaught Place. The conviction arose from his involvement in a terrorist conspiracy wherein he, along with his other co-accused, kidnapped four foreign nationals with the objective of pressuring the Government of India to release jailed militants. The offence was executed under the banner of the proscribed terrorist organisation, *Harqat-ul-Ansar*.

3. At the outset, it is necessary to clarify a submission recorded on the previous date of hearing, wherein it was noted that the Petitioner intended to rely upon the judgment of the Supreme Court in *Sukhdev Yadav @ Pehalwan v The State of (NCT of Delhi) and Ors.*⁴:

“1. Mr. Akshay Bhandari, counsel for the Petitioner, places reliance on the recent Supreme Court order in Sukhdev Yadav @ Pehalwan v The State of (NCT of Delhi) and Ors.1 , and submits that since the Petitioner in the resent case has also been convicted for a total period of 20 years without remission, he is entitled to release having served the sentence. Mr. Amol Sinha, ASC for State is directed to take instructions on this aspect.”

4. Today, Mr. Akshay Bhandari, counsel for the Petitioner, submits that the aforesaid representation was made by his colleague, and not by him. He clarifies that the Petitioner does not seek to place reliance on *Sukhdev Yadav* nor does he claim any parity with the reasoning or relief extended therein, as, on his own showing, the Petitioner would not be entitled to such benefit.

5. In light of this unambiguous stand taken by counsel, the order dated 30th July, 2025, stands clarified accordingly.

6. With that clarification in place, the Court has heard the counsel for the Petitioner at length. The Petitioner was convicted under Sections 121A, 122 and 124A of IPC, Sections 3(1) and 3(5) of the TADA Act and Section 14 of

³ “the TADA act”



the Foreigners Act, by judgement dated 26th April, 2002, passed by designated Judge TADA and sentenced to death. In appeal, the Supreme Court, by judgment dated 22nd August, 2003, while upholding the conviction, modified the sentence, commuting death sentence to life imprisonment, subject to following terms:

“In the case at hand, the entire planning for commission of offence punishable under Section 364A was masterminded and executed by Umar Sheikh who has managed presently to go out of net of law. In his case, death sentence may have been appropriate. But in case of the co-conspirators (the present six accused appellants) similar approach is not warranted on the peculiar facts found/established. No distinctive feature has been indicated to impose two different sentences i.e. death sentence for three and life sentence for three others. There is no appeal by the prosecution to enhance the sentence in those cases where life sentence has been imposed. It would be therefore appropriate to impose life sentence on all the six accused appellants.

In the ultimate, convictions of A-1, A-3 and A-8 under Section 3(1)(i) of TADA Act is altered to Section 3(1)(ii) of TADA Act. Their convictions under Sections 121A, 122 and 124 IPC and sentences imposed are maintained. The conviction under Section 364-A read with Section 120B IPC is maintained, as it is the conviction under Section 3(4) of the TADA Act and Section 14 of the Foreigners Act for the concerned accused appellant along with sentence imposed.

However, considering the gravity of the offence and the dastardly nature of the acts and consequences which have flown out and would have flown in respect of the life sentence, incarceration for the period of 20 years would be appropriate. The accused appellants would not be entitled to any remission from the aforesaid period of 20 years. As observed by this Court in Ashok Kumar v. Union of India (AIR 1991 SC 1792 and Satpal v. State of Haryana and Anr. (1992 (4) SCC 172), "imprisonment for life" means imprisonment for the full span of life.

The death reference and appeals are accordingly disposed of.”

7. Upon becoming eligible for premature release as per the policy dated 16th July, 2004 issued by the Government of NCT of Delhi,⁵ the case of the Petitioner was considered and rejected by the SRB by order dated 30th June,

⁴ SLP CrI. No. 17915/2024



2023, to the following effect:

“Report received from police and social welfare departments for premature release of convict and after taking into account all the facts and circumstances of the case i.e. the crime was committed in a terrorist act (Kidnapped 04 foreign nationals to build pressure over Indian Government to release dread militants from Jails), the gravity, perversity and nature of the crime, un satisfactory jail conduct in view of multiple punishments, shown non-reformative attitude, having not lost propensity to commit crime etc. the Board unanimously Rejects premature release of Nasir Mohd. Sodozey @ Aftaab @ Ahmed @ Abdullah S/o Sh. Sakhi Mohd at this stage.”

8. Counsel for the Petitioner contends that the SRB’s reasoning runs contrary to the express framework of the 2004 policy. Under this policy, life convicts are classified into two broad categories. The first category consists of convicts who, in the ordinary course, become eligible for consideration after completing 14 years of actual imprisonment, with the total period of incarceration, including remission, ordinarily not exceeding 20 years. The second category covers more aggravated cases, such as convicts in heinous murders or those whose death sentence has been commuted. Even for this class, while 20 years of imprisonment including remission may be required before eligibility arises, the maximum prescribed term of incarceration, inclusive of remissions, is capped at 25 years. On this footing, it is argued that the Petitioner, having already completed more than two decades of incarceration, satisfies the threshold under the 2004 policy and ought to have been positively considered for release.

9. It is further urged that the Petitioner has already crossed this outer limit, having undergone incarceration for over 26 years. His continued detention, therefore, is asserted to be contrary to the mandate of the 2004

⁵ “2004 Policy”



policy itself. Once the outer limit of 25 years is surpassed, it is argued, the SRB was bound to recommend release, and could not decline his case merely by re-emphasising the gravity of the offence which was committed decades ago.

10. It is further submitted that reliance on the nature of the original offence, while disregarding the Petitioner's subsequent conduct and reformation, is legally impermissible. The policy does not contemplate perpetual incarceration solely on account of the gravity of the crime. Reliance is placed on the judgment of the Supreme Court in *Joseph v State of Kerala*⁶, wherein it was held that the continued incarceration of a convict who has already served substantially long imprisonment, despite demonstrable reform, good conduct, and diminished risk to society, negates the very object of remission and falls foul of Article 14 of the Constitution.

11. The request for premature release is vehemently opposed by Mr. Amol Sinha, ASC for the State. He submits that the SRB was fully justified in declining the Petitioner's case, keeping in view the gravity and the broader societal ramifications of the offence, which involved kidnapping foreign nationals in furtherance of a terrorist conspiracy. He further argues that the reliance placed by the Petitioner on the 2004 policy is misplaced. The policy, he points out, does not confer an absolute right to release upon completion of 25 years of incarceration; rather, it only entitles the convict to be considered for premature release. The ultimate decision rests on a holistic evaluation of factors such as the nature of the crime, the conduct of the prisoner during incarceration, the potential risk of recidivism, and the overall societal impact. Thus, the argument that release becomes automatic



on completion of 25 years is unsustainable.

12. As per the nominal roll dated 21st March, 2025, the Petitioner has undergone 28 years, 7 months, and 13 days of actual imprisonment, and 30 years, 5 months, and 1 day including remission. The record further reflects that four punishments stand recorded against him during his incarceration, leading to his overall conduct being assessed as unsatisfactory. It is, however, noted that his conduct during the last one year has been reported to be satisfactory. According to the State, this track record, particularly the earlier history of punishments, indicates that the Petitioner has not consistently exhibited a reformatory disposition, thereby justifying the SRB's conclusion that his continued incarceration remains warranted.

13. The police department has opposed the Petitioner's premature release, citing concerns of national security. In particular, reliance is placed on his past association with Ahmed Omar Saeed Sheikh, one of the principal conspirators, who was subsequently released in 1999 following the hijacking of Indian Airlines Flight IC-814. It is apprehended that his release may rekindle networks or sympathies hostile to the State. At the same time, the Social Investigation Report notes that the Petitioner's present conduct within the jail has been satisfactory and that, in recent years, he has not displayed overt tendencies of violence or indiscipline. This divergence between the security-centric assessment of the police and the reformatory assessment of the probation authorities lies at the heart of the present controversy.

14. The Court has considered the aforementioned contentions and perused the material placed on record. There can be no gainsaying that the offence for which the Petitioner stands convicted is of the gravest order. The Petitioner,

⁶ W.P. (Crl) No. 520 of 2022



in concert with his co-conspirators, abducted and held captive four foreign nationals, not for private gain or personal animosity, but with the intent of compelling the sovereign Government of India to yield to the demands of a militant organisation. The act was calculated, deliberate, and carried out as part of a terrorist conspiracy to subvert the authority of the State and coerce governmental policy by unlawful means. Such conduct is not merely an ordinary crime but an attack upon the very fabric of civil order, striking at the rule of law and the security of the State. The broader objective, employing fear and intimidation to secure political ends, marks this case apart from conventional offences, placing it in a category of exceptional gravity.

15. The extraordinary gravity of the crime was explicitly recognised in the order on sentence dated 27th April, 2002, passed by the Designated Judge, TADA, New Delhi. The Court, while declining any leniency, recorded that the accused, including the present Petitioner, were trained operatives linked with the terrorist outfit Harkat-ul-Ansar. The sentencing order highlighted that the operation was not an isolated criminal act, but part of a larger militant campaign against the sovereignty of India, involving the abduction of foreign nationals to secure the release of imprisoned terrorists.

The relevant portion is reproduced verbatim as under:-

“1. I have heard accused persons on the question of sentence. The accused persons instead of arguing on the question of sentence have repeatedly stated that they were innocent and have been falsely implicated. They did not want to say anything on the question of sentence. Accused Nazir Khan @ Khan @ Saifulla @ Mohd. Khan @Mohd Akarm @ Nazir Abdul Rahim and Nasar Mehmood Sodgzy @Aftab Ahmed @ Abdullah are Pakistani Nationals and had receive training in terrorism in Khost, Afghanistan. Accused Mohd Sayeed Mahood @ Ayub @ Topiwala and Nurul Amin are the three Indian terrorists. Accused Nurul



Amin had received training in Dhakain a camp, accused Mahmood @ Aub @ Topiwala had also been to Pakistan and while working as Mauzin in Jama Masjid, he actively helped the terrorists in preparing the hideouts, acted as information conduit and went to Pakistan Embassy for affixing visas of other person as at the instance of one Farooq. Accused Mohd. Sayeed for greed of money and having one Maruli Van After the operation had decided to co-operate the terrorists in the crime of kidnapping of foreigners and keeping them hostage. It is he show drove the van with foreigners to the hide-outs, where foreigners were chained. He has also arranged house at Hapur Road, U.P.

2. Anti India literature of Harqat Ul Ansar, a terrorist outfit, to which these accuse persons and Ahmed Umar Syed Sheikh belonged was recovered from one of the hideouts belonging to them Accused Nazir Khan, Abdul Rahim and Nasar Mehmood Sodozy having been brain-washed by terrorist training and after receiving the training, they entered India. All the terrorists had been trained to indulge an destructive activities they are will trained in firing rocket-launchers hand-grenades, AK-47 Rifles, Mortar guns. For them life of innocent persons has no value taking life to innocent persons amount to fulfilling of their object to creating terror. They had entered India with the intention "of dismembering the Indian territory of Kashmir and with the intention of getting other terrorist liberated, so that their object of waging an unholy war against India is fulfilled.

*3. I consider that these there accused persons do not deserve leniency of any king. Misplaced sympathy encourages more persons to enter into this filed. One of the object of punishment must be given so that other foreign mercenaries do not dare to enter India and create chaos here and before thinking of entering India for fulfilling their nefarious designs, they must know, what end they can meet. These terrorists by distribution literaue of malicious propaganda against India, create hatred in the mind of section of people whose sympathy they want to again. They act at the instance of foreign powers and role of ISI has been stated clearly by them in their disclosure statement. If such parsons are to be prevented from entering India for flaring up communal riots and from exiting the sentiments of a community the punishment to be awarded to them must be deterrent."*⁷

[Emphasis supplied]

16. Equally significant is the Petitioner's association with Ahmed Omar Saeed Sheikh, one of the co-conspirators in this very case, who was later



released by the Government of India pursuant to the hijacking of Indian Airlines Flight IC-814 in 1999. The release of Sheikh, under extreme duress and in exchange for hostages, stands as a reminder of the far-reaching consequences of the conspiracy in which the Petitioner was involved. This association is not a matter of conjecture but part of the judicial record, and it highlights the entrenched connections of the Petitioner with networks that have posed serious threats to national security. Against such a backdrop, the concerns raised by the State regarding the risks associated with the Petitioner's release cannot be treated as fanciful or speculative, but must be weighed as part of the larger context of the case.

17. This Court is also guided by the judgment of a coordinate bench of this Court in *Nazir Khan v. State (NCT of Delhi)*,⁸ where a co-accused in the very same FIR sought premature release. In that case too, the prayer was declined, the Court holding that the gravity of the crime, its far-reaching societal impact, and the continuing potential of the convict to compromise public safety and national security, outweighed all other considerations. The factual matrix in the present petition is materially indistinguishable and the reasoning adopted in *Nazir Khan* applies with equal force here.

18. The submission that completion of 25 years of incarceration entitles the Petitioner to release is equally misconceived. The 2004 Policy does not create a vested right to release upon completion of 25 years; it merely confers eligibility for consideration. The Supreme Court has consistently held, including in *Union of India v. V. Sriharan*,⁹ that remission or premature release is not a fundamental right. A life sentence, as settled in

⁷ Extracted from *Nazir Khan v. State (NCT of Delhi)* 2022 SCC OnLine Del 4458

⁸ 2022 SCC OnLine Del 4458



law, ordinarily means imprisonment for the entirety of the convict's natural life, unless remission is granted in accordance with law. At best, a life convict acquires a right to have his case considered under the prevailing policy but he cannot demand release as a matter of right. This Court in *Nazir Khan* has also rejected a similar argument, emphasising that the threshold of 25 years is only a trigger for consideration, not an automatic mandate of release.

19. It is also well recognised that in cases touching terrorism, offences against the State, or crimes with a bearing on national security, considerations of public safety may legitimately override the reformatory claims of an individual convict. While prolonged incarceration is a relevant factor and must weigh with the reviewing authority, it cannot prevail over the larger interests of society where the underlying crime was designed to destabilise the State and spread fear among its citizens and international visitors. In the present case, the act of abducting foreign nationals was calculated to project a threat against the sovereignty of India, with international ramifications. Such an act not only undermined domestic security but also tarnished India's standing before the world community. Against this backdrop, the balance tilts decisively in favour of societal and national security concerns.

20. In view of the foregoing discussion, this Court is of the opinion that, despite the long incarceration undergone by the Petitioner, the nature of the offence, its broader societal impact, and the legitimate concerns of national security remain overriding considerations. The factor of 'welfare of society', expressly recognised in the remission policy, is of wide amplitude and

⁹ (2016) 7 SCC 1



encompasses considerations such as the nature of the offence, its potential impact on public order and national security, and the confidence of the community at large. Accordingly, no infirmity is found in the SRB's rejection of the Petitioner's case.

21. Dismissed. It is, however, clarified that it shall remain open to the competent authorities to place the Petitioner's case before the Sentence Review Board for future consideration in accordance with law.

SANJEEV NARULA, J

AUGUST 21, 2025

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