

Order Sheet
IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Const. Petition No.D-1474 of 2019

Date of hearing	Order with signature of Judge.
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Hearing of Case (Priority)

- 1.For orders on o/objections
- 2.For hearing of CMA 6291/2019
- 3.For hearing of main case

25-09-2025

Mr. Shabbir Ali Bozdar, Advocate for the Petitioner.
Mr. Shahriyar I. Awan, Assistant Advocate General.
Mr. Gulzar Ahmed Malano, Assistant Prosecutor General.
Mehboob Ali (Respondent No.5) is present in person.

The petitioner (complainant) has challenged the premature release of respondent No.5/convict, who had been convicted and sentenced in Sessions Case No.43 of 1998 (State v. Mehboob Ali) arising out of Crime No.53 of 1998, registered at Police Station Daharki, for offences under Sections 302, 324 and other provisions of the Pakistan Penal Code. He was sentenced to life imprisonment by the learned 1st Additional Sessions Judge, Ghotki, and the conviction was upheld by this Court in Criminal Appeal No.D-15 of 2004 through judgment dated 08.10.2019. Despite this, the respondent No.5 was released by the jail authorities after serving less than thirteen years of actual imprisonment, which the petitioner contended was contrary to law and the applicable Prison Rules.

Learned counsel for the petitioner submitted that the respondent No.5 had been sentenced for a heinous offence and could not be lawfully released unless he had undergone at least fifteen years of substantive imprisonment. It was argued that the remissions granted lacked proper legal basis, particularly as Rule 216 of the Prison Rules requires reasons to

be recorded before awarding remissions. Counsel stressed that jail authorities cannot exercise powers akin to the President of Pakistan, who alone, under Article 45 of the Constitution, enjoys plenary powers to grant special remissions. The unlawful exercise of discretion by the jail authorities amounted to a denial of justice to the complainant and the victim's family.

Learned Law Officers appearing on behalf of the State candidly conceded that the release was not in accordance with the law. They referred to the comments furnished by the respondents confirming that the President of Pakistan had granted special remissions of nine years, one month and fifteen days, but the remaining remissions were mechanically granted by the jail authorities. Such action, they argued, was inconsistent with both binding judicial precedent and the relevant Prison Rules. They accordingly supported the petitioner's prayer that the respondent No.5 be taken into custody and remanded to jail to serve out his remaining portion of sentence.

Mr. A.R Faruq Pirzada, learned Amicus Curiae, appointed by this Court, however, has already filed synopses, wherein he submitted that Article 45 confers plenary powers upon the President, unfettered by subordinate legislation, and that the respondent No.5 had lawfully earned remissions, both special and general. According to him, the release was proper and in line with the constitutional scheme. He placed reliance on **Haji Abdul Ali v. Haji Bismillah and others (PLD 2005 SC 163)**.

Today, respondent No.5 is present in person and files statement together with copy of Synopsis filed by Mr. A.F. Faruq Pirzada, Amicus

Curiae on 29.03.2023. He further submits that said Synopsis may be treated as his arguments.

We have heard learned counsel for the petitioner, learned Law Officers, and respondent No.5 in person and perused the record. We have also minutely examined the Synopsis of learned Amicus Curiae in the light of dicta laid down in the case of Nazar Hussain (**supra**), and this Court found that respondent No.5 had served out only thirteen years, three months and thirteen days of actual imprisonment. While special remissions granted by the President were valid, the further remissions unilaterally awarded by the jail authorities were contrary to law. It is a settled principle that remissions cannot shorten the sentence of life imprisonment to a period less than fifteen years of actual imprisonment. Thus, the premature release of the respondent No.5 on the basis of remissions, not sanctioned by law, was erroneous and could not be sustained. Reliance placed on the judgment reported as **Nazar Hussain v. State (PLD 2010 SC 1021) and Government of Khyber Pakhtunkhwa v. Wali Khan (PLD 2022 SC 253).**

For the detailed reasons to follow, instant petition is **allowed**. The respondent No.5, present in Court, is taken into custody and remanded to Central Prison, Sukkur, to serve out his remaining portion of substantive sentence in accordance with law.

JUDGE

JUDGE