

(1995) 08 RAJ CK 0024

In the Rajasthan High Court

Case No : Habeas Corpus Petition No's. 70, 71, 285, 467, 468, 812 and 1029 of 1995

Lakkhi and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 14-08-1995

Acts Referred:

Constitution of India, 1950 — Article 161, 72
Criminal Procedure Code, 1973 (CrPC) — Section 428, 432, 433, 433A
Penal Code, 1860 (IPC) — Section 302, 511, 53, 55, 55A
Prisons Act, 1894 — Section 59(5)
Rajasthan Prisons (Release on Parole) Rules, 1958 — Rule 10A, 15, 3, 9
Rajasthan Prisons (Shortening of Sentences) Rules, 1958 — Rule 10, 12, 7 8, 9

Citation : (1996) CriLJ 2965 : (1996) 2 RLW 200 : (1996) 2 WLC 613

Hon'ble Judges : Y.R. Meena, J; Mohini Kapur, J

Bench : Division Bench

Advocate : D.V. Tholiya, N.C. Chaudhary, R.S. Chauhan and A.K. Gupta, S.R. Yadav, Government Advocate and A.M. Khan, for the Appellant; Shekhar Kapur, for the Respondent

Judgement

Mohini Kapur, J.—A number of habeas corpus petitions come up before this Court from time to time for purposes of reduction/commutation of sentences and release on parole/premature release by prisoners undergoing life imprisonment. There is a common belief in some quarters that life imprisonment means imprisonment for 14 years or imprisonment for 20 years and after this period the convict should be released automatically. Looking to the importance of the questions which arise in various habeas corpus petitions, the following questions were framed and advocates were also invited to assist the Court in answering these questions :-

1. What is the maximum period of imprisonment which has to be undergone by a person sentenced to life imprisonment? This has to be decided in view of the Rules framed by the State of Rajasthan;

2. After how many years of the actual imprisonment or imprisonment including remission is a convict undergoing sentence of imprisonment for life eligible for being considered for pre-mature release ?

Apart from the provisions of Code of Criminal Procedure, Indian Penal Code and Constitution of India, the other relevant statutes and rules can be said to be the Prisons Act, 1894 (Act No. 9). The Rajasthan Prisons Rules, 1958, the Rajasthan Prisons (Shortening of Sentences) Rules, 1958 (hereinafter referred to as "the shortening of sentence Rules") and the Rajasthan Prisoners Release on Parole Rules, 1958 (hereinafter referred to as "the Parole Rules").

2. Section 53 of the IPC provides for the punishments to which the offenders are liable under the Act and one of the punishments is imprisonment for life. Earlier, one of the modes of punishment was transportation for life but this has now been omitted and it has been provided that reference to transportation to life shall be construed as imprisonment for life. Section 57 of the IPC provides that in calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years. On account of this provision it is generally believed that the sentence of life imprisonment means imprisonment for twenty years. However, this is not so. This provision is applicable only for the purposes of calculating the fractions of terms of punishment. For example Section 511, IPC provides for punishment for attempt to commit offence punishable by imprisonment for life or other imprisonment, and where no express provision is made by the Code, for the punishment of such attempt, the accused may be punished for a term which, may extend to one half of the imprisonment for life or as the case may be half of the longest term of imprisonment provided for that offence. The scope of Section 57, IPC is limited to calculation of fractions of terms of imprisonment and only while calculating fractions life imprisonment is to be reckoned as equivalent to imprisonment of twenty years. Life imprisonment does not mean imprisonment for twenty years for all purposes.

3. Section 55, IPC provides that in every case in which sentence of imprisonment for life shall have been passed the appropriate Government may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years. This section empowers the appropriate Government (defined in Section 55A, IPC) to commute the sentence of imprisonment of life. A right has been conferred on the Govt. the exercise of which is discretionary. This provision does not mean that life imprisonment is imprisonment for fourteen years, and a prisoner is to be automatically released after fourteen years of imprisonment. It is for the appropriate Government to commute the sentence and for this purpose Rules have been framed by the State Government.

4. The appropriate Government has power under Sections 432 and 433, Cr. P.C. to suspend or remit or commute the sentence while Section 433A, Cr. P.C. imposes restrictions on the powers of remission or commutation in certain cases.

These provisions have been considered again and again in a number of decisions by the Supreme Court to which we shall refer presently. We may look into the provisions of the Constitution of India also which can be said to be relevant in this connection. Article 72 of the Constitution confers powers on the President of India to grant pardon reprieve or remissions in punishment or to suspend, remit or commute the sentence of any person convicted for certain offences. Same powers have been given under Article 161 to the Government of the State.

5. The first case in this connection is *Gopal Vinayak Godse Vs. The State of Maharashtra and Others*, . Referring to the provisions of the IPC and the Code of Criminal Procedure it was held that unless the sentence is commuted or remitted by the appropriate authorities under the relevant provisions, a prisoner sentenced to life imprisonment is bound under the law to serve the life term imprisonment which means the whole of the remaining period of the convicted persons' natural life, meaning thereby that imprisonment for life is for indefinite period as it cannot be said when a person would die.

6. In *Bhagirath Vs. Delhi Administration*, it was held that equitable consideration must prevail while construing beneficial provisions especially in criminal law and on basis of this it was held that benefit of Section 428, Cr. P.C. must be given to the prisoners sentenced to life imprisonment otherwise it would amount to withdrawal of application of a benevolent provision from a large majority of cases in which such benefit would be needed and justified on equitable considerations. It was further held that a person who is sentenced to life imprisonment is sentenced to imprisonment for a "term". The expression "imprisonment for life" and "imprisonment for a term" are not used either in the Penal Code or in the Criminal Procedure Code in contradistinction with each other.

7. In *Ashok Kumar alias Golu Vs. Union of India and others*, it was held that a prisoner is not entitled to be released under the remission rules unless his sentence is remitted u/s 432 which is subject to limitation u/s 433A, Cr. P. C. However, it was held that Section 433A restricts exercise of powers under Sections 432 and 433 but these provisions themselves are subject to overriding powers under Articles 72 and 161 of the Constitution and also the rules which in this case were the Rajasthan Prisons (Shortening of Sentences) Rules, 1958.

8. In *Naib Singh Vs. State of Punjab and Others*, it has been clarified that imprisonment for life means rigorous imprisonment for life.

9. In *State of Madhya Pradesh Vs. Ratan Singh and Others*, the matter was again clarified and it has been held that as laid down in *Godse's* case imprisonment for life means sentence for entire life, which does not expire automatically at the end of twenty years including remission, because the rules framed under the various Jail Manuals under the Prisons Act cannot supersede the statutory provisions of the Indian Penal Code. The appropriate Government has the undoubted discretion to remit or refuse the sentence and where it refuses to remit the sentence no writ can be issued directing the State Government to release the

prisoner.

10. So far the position can be summarised as under:-

- (i) a person sentenced to life imprisonment has to undergo sentence for the remaining period of his life;
- (ii) the provisions of Sections 55 and 57 of the Indian Penal Code do not provide for automatic conversion of sentence of imprisonment for life to 14 years or 20 years;
- (iii) The President or the Governor has powers under Articles 72 and 161 of the Constitution of India to grant pardon or remit the sentence; and they are not governed by the Code of Cr. Procedure;
- (iv) the Government has power to suspend or remit sentence under Sections 432 and 433 of the Code of Criminal Procedure and this power is restricted by the provisions of Section 433A, Cr. P. C.;
- (v) sentence undergone during the period of trial has to be set off against the sentence even in the case of life imprisonment as life imprisonment is also imprisonment for a "term" though indefinite.

The duty of a Judge is to award a proper punishment to the guilty and the judicial function culminates in a judgment pronounced in accordance with law. This judicial verdict can be set aside only in an appeal as provided by law. Thereafter the function of the executive commences and it has to give effect to the judicial verdict. The appropriate Government may u/s 432, Cr. P. C. (a) suspend the execution of the sentence or (b) remit the whole or part of the punishment; (c) impose suitable conditions; (d) cancel the suspension or remission if conditions are not fulfilled; and (e) the appropriate Government may by general rules or special orders give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

11. u/s 433, Cr. P. C. the appropriate Government has the power to commute a sentence without the consent of the person sentenced and this power includes to commute (a) the sentence of death for any other punishment provided by the I.P.C.; (b) a sentence of imprisonment for life for imprisonment for a term not exceeding fourteen years or; (c) a sentence of rigorous imprisonment for simple imprisonment or fine and (d) a sentence of simple imprisonment for fine.

12. Section 433A, Cr. P. C. places embargo on the powers of the Government under Sections 432 and 433, Cr. P. C. and this relates to those cases (a) where the sentence is for imprisonment for life for an offence for which death is one of the punishments provided by law; (b) sentence of death imposed on a person has been commuted u/s 433 into one for imprisonment for life. In both these cases, such persons shall not be released unless they have served 14 years' actual imprisonment. This provision came into effect by Act No. 45 of 1978 and

has prospective operation.

13. As we are concerned only with the persons sentenced to life imprisonment, it can be said that the appropriate Government has the power to suspend the execution of the sentence or remit the whole or part of the sentence. It may by general rules or special orders give directions to suspend the sentences, commute the sentence of death for any other punishment; commute the sentence for imprisonment for life to imprisonment for a term not exceeding fourteen years or for fine but if the conviction is after the introduction of Section 433A on 18th December, 1978 then it is mandatory that the convicted person shall not be released from prison unless he has served at least fourteen years of actual imprisonment, when he is sentenced to imprisonment for life for the offence which is also punishable by death.

14. Now we come to the rules framed by the State Government under which the sentence can be remitted or commuted. These rules have to be subject to the above provisions of the Cr. P. C. and cannot be contrary to the statute itself.

15. The Prisons Act, 1894 deals with the manner in which prisoners are to be dealt with and how the punishments imposed are to be executed. u/s 59(5) of the Prisons Act, the State Government may make rules consistent with the Act for the shortening of sentences. Under this power the State Government has framed the Rajasthan Prisoners (Shortening of Sentence) Rules, 1958 (hereinafter referred to "as" the shortening Rules, 1958")

16. The Shortening Rules provide for the constitution of an Advisory Board to investigate, recommended to the Government on sentences of certain classes of prisoners with a view to release such reformed prisoners as have served a sufficiently deterrent period of their sentence. It may be stated that these Rules apply not only to those prisoners who are undergoing life imprisonment but to others also undergoing lesser imprisonment. For the purpose of these petitions we may refer only to those provisions which are applicable to prisoners undergoing life imprisonment. The Advisory Board has-to scrutinise the matters as provided in Rule 7 in full and accurate details before recommending shortening of sentence or premature release of prisoners to the Government. They are :

(a) Circumstances in which offence was committed and the punishment awarded by the Court;

(b) Details of the prisoner's previous history and character in the district where the prisoner was resident;

(c) Prisoner's conduct in the prison and the result of imprisonment already undergone by him.

(d) Opinion of the District Magistrate and the Superintendent of Police of the Districts in which the prisoner was convicted and was resident with special reference to the following points:-

- (i) the reaction in the locality, if the prisoner is released prematurely.
- (ii) the feelings of the relations of the victim or victims of the offence who suffered at the hands of the accused in case of premature release;
- (iii) Whether the life of the accused itself will be safe, if he is to be released prematurely;
- (iv) any other information material to the case of the prisoner; and
- (v) whether the prisoner can be released with safety to the community.

Rule 8 of the shortening of sentences Rules provides as to who shall be eligible to be considered by the Advisory Board for premature release. The amended Rule 8 reads as under:-

8. Prisoners eligibility for consideration by the Advisory Board : The Advisory Board shall be entitled to consider cases of the following types of prisoners only :-

- (i) A prisoner other than habitual criminal undergoing a substantive sentence of three years or over who has completed two years imprisonment or half of his sentence whichever is greater including remission;
- (ii) A prisoner being a habitual criminal under has served 21/2 years of his substantive sentence, including the period of remission, or has served two thirds of his sentence including the period of remission, whichever is greater.
- (iii) (a) A Prisoner sentenced to transportation for life or to more than 14 years of imprisonment except one specified in sub-rule (b) below, who has served 2/3 of his sentence or 13 years 8 months of imprisonment including remission, whichever is less. A sentence for transportation for life will be construed to be one of imprisonment shall include sentence in default of payment of fine, if the same has not been paid. The remission actually earned by a prisoner shall be taken into account by the Advisory Board and not a special remission granted in celebration of public function for example. Independence Day, Republic Day etc.
- (iii) (b) A prisoner who has been sentenced to imprisonment for life after 18.12.78 for an offence for which death penalty is one of the punishments provided by law or who has been sentenced to death but this sentence has been commuted u/s 433 of Cr. P. C. into one of life imprisonment excluding remission but including the period of detention passed during enquiry, investigation or trial.
- (iv) Prisoners awarded long term sentences by Court-Martial and have served two-thirds of their sentences including the period of remission.
- (v) Prisoners suffering from infectious diseases, such as Leprosy, tuberculosis, provided their disease is likely to be dangerous to other prisoners and conditions prescribed in Rule 7 are fulfilled;
- (vi) Prisoners who have attained the age over 65 years .In case of male prisoners and over 55 years in case of women prisoners in whose case no public interest is

likely to be served by keeping them in prison; provided they are serving sentences for their first and only conviction, and are not covered under Clause (iii) (a) and (iii) (b) above.

Rule 9 provides for those prisoners who are ineligible for consideration for premature release by the Advisory Board and they are such prisoners who have been convicted of rape, forgery, dacoity or any offence against the State involving violence, kidnapping etc. Habitual criminals and who are homeless and have three or more convictions are also excluded from consideration. The procedure adopted by the Advisory Board is provided Under Rule 10 and this is as under:-

10. Procedure : In order that all necessary information might be placed before the Advisory Board the following procedure shall be adopted :-

(i) The Secretary of the Advisory Board shall collect full particulars regarding each prisoner eligible for consideration by the Board before the date appointed for the meeting of the Board and shall place full and accurate details regarding the prisoner's previous history and character, judgment of the convicting Court depicting circumstances in which the offence or offences were committed and sentences were awarded his prison record together with the report of the District Magistrate and the District Superintendent of Police of the district containing information whether the prisoner is considered fit for premature release etc. before the Board. Any other information required by the Advisory Board shall also be made available from the record of the prison.

(ii) The Advisory Board shall carefully scrutinize and consider the judgment of the Court, reports of the police and Magistracy on the conduct and character of the prisoner recommended for release, any conditions suggested for release and true prisoner's conduct and behaviour in the prison before coming to a decision in each case whether a prisoner is entitled for release without any danger to himself and the community at large. The prisoner whose conduct has been exemplary in the prison should only deserve the consideration of the Advisory Board.

(iii) Report about physical and mental conditions of prisoner fit for release will be obtained by the Secretary of the Advisory Board from the Medical Officer in charge of the prison concerned and the same shall be placed before the Board for consideration before final recommendation is made to the Government.

(iv) The Advisory Board shall then submit its recommendations with full history of each case along with relevant papers in the Form 1 given in the appendix to these rules to the Government.

(v) In the case of a prisoner convicted by Court-Martial the prisoner's antecedents need not ordinarily be inquired into and it will be sufficient to enquire about his behaviour in prison.

On consideration in accordance with these rules, the Advisory Board may

recommend a prisoner to be released prematurely, conditionally or unconditionally. The Government has to consider the recommendations of the Advisory Board under Rule 12 and this provides that the Government shall order release of prisoner in cases for which having regard to all the circumstances of the case, it considers that the prisoner may be released without any danger to the society.

17. For our purpose these shortening of sentences Rules may be summarised as under :-

- (1) An Advisory Board is to be constituted for scrutinising the cases of prisoners for premature release;
- (2) Besides the record, opinion of District Magistrate and the Superintendent of Police is to be obtained with special reference to the points mentioned in Rule 7 of the Rules;
- (3) A person under going life sentence who has been convicted after 18th December, 1978 (the date on which Section 433A, Cr. P. C. came into force) for an offence punishable with death or life imprisonment cannot be considered for premature release unless he has served fourteen years" of actual imprisonment;
- (4) Life convicts for offences which are not punishable with death will become eligible for consideration for premature release by the Advisory Board as soon as they serve out two thirds of the sentence including remission, and for computing two third sentence, life imprisonment is to be reckoned as equivalent to twenty years.
- (5) Certain prisoners are not eligible for premature release;
- (6) The Advisory Board may after taking into consideration the entire records and reports recommend premature release with or without conditions;
- (7) The Govt. has to examine the report of the Advisory Board and it has to release a prisoner where he can be released without any danger to the society.

In this context we may first of all mention that several reports of the Distt. Magistrates and Supd. of Police have come before us in several cases and these reports in most of the cases are just filling a set Performa without disclosing the source on basis of which they have made the report. For example against the column of "reaction in the locality if the person is released prematurely" it is mentioned that it will have a bad effect because a life convict is being released prematurely. Against the column "whether the life of the convict will be safe," it is stated "no". Most of the columns are filled mechanically without conducting any inquiry in the village or the town concerned. Such reports are hardly of any assistance to the Advisory Board and again and again this Court has emphasized in several cases that the report should be objective, after making an actual inquiry in the concerned village or town.

18. Again it may be stated that under Rule 12 of the Rules the Govt. has to

accept the recommendations of the Advisory Board for pre-mature release and the only ground on which the recommendation can be refused is when the prisoner cannot be released without any danger to the society. For forming this opinion also, there should be some basis either in the nature of circumstances of the case or the reports of the Distt. Magistrate or Supdt. of Police.

19. It may be stated here that the Advisory Board consists of senior officers like Home Commissioner/ District Magistrate, Senior Judicial Officer and Publicman like M.L.A. The Govt. has to give due regard to the recommendations of such a body. Keeping this in mind the ground on which the Govt. can refuse to accept the recommendations has been limited. The Govt. cannot reopen the matter and start examining the case as the Advisory Board itself.

20. We consider it proper to deal with the Rajasthan Prisoners (Release on Parole) Rules, 1958 (hereinafter referred to as "the Parole Rules") also in order to emphasise that the executive has sufficient powers to deal with the applications for grant of parole and that they should exercise their powers and not force the prisoners to approach this Court for grant of parole even in emergent cases like death of mother or father, serious illness of a family member, marriage of a close relation etc. In the Parole Rules there is provision for constituting Prisoners Parole Advisory Committee at the State Level of which the Inspector General of Prisons Rajasthan will be the Chairman and the District Parole Advisory Committee of which the District Magistrate shall be the Chairman. Under Rule 3 a prisoner has to move application for grant of parole in form-1 and this is entered in the register. It is provided that the Superintendent of Jail will put his remarks on the application and forward the same in original to the District Magistrate of the District in whose jurisdiction the prisoner wants to spend his parole. A copy is also to be sent to the Protection Officer if there is Probation Officer appointed and if felt necessary the Superintendent of Police and District Magistrate will consult him. They will give their remarks whether the convict should be released on parole or not. On the recommendations of the State Committee/District Committee a prisoner can be released on parole on his furnishing personal bond and surety bonds. Rule 9 provides for the period of parole. A person who has completed, without remission one fourth of his sentence, subject to good conduct in the jail may be released on first parole for 20 days, including the days of journey to home and back, for 30 days on second parole provided his behaviour has been good during the first parole and for 40 days on third parole provided his behaviour has been good during the second parole. If during the third parole also, the prisoner has behaved well and his character has been exceedingly well and if the conduct of the prisoner has been such that he is not likely to relapse into crime, his case may be recommended to the State Government through the State Committee for permanent release on parole on such conditions as deemed fit by the Superintendent Jail and the District Magistrate concerned. The condition to be imposed is that while on parole if the prisoner commits any offence or abets, directly or indirectly commission of any offence he will have to undergo the unexpired portion of the sentence in

addition to any sentence imposed upon him by reasons of such an offence. In case the permanent release on parole is rejected, the prisoner will be eligible for release on parole for 40 days every year subject to the same conditions for the remaining period of his sentence.

21. This is the normal parole which each prisoner is entitled to and as soon as he becomes eligible on completion of one fourth of his sentence including remission, he is entitled to 20,30 and 40 days parole every year respectively and even thereafter in case he is not released on permanent parole, he is entitled for parole of 40 days every year. Here again, it may be mentioned that this rule shall be subject to Section 433A, Cr. P. C. Permanent parole to a person sentenced to life imprisonment after December 1978 for an offence which is also punishable with death can be granted only after he has undergone 14 years of actual imprisonment. However, he would be entitled to regular yearly paroles in case the condition given in Rule 9 of the Parole Rules are fulfilled, after he has completed five years' imprisonment including remission, as Under Rule 15 of the Parole Rules, life sentence has been reckoned as 20 years hence one-fourth would be five years. Thus, under the rules, a life convict is entitled to parole every year, if other conditions are satisfied, after having undergone live years' sentence including remission. A prisoner convicted prior to 18th December, 1978 i.e. before coming into force of Section 433A, Cr. P. C. and sentenced to life imprisonment can be granted parole after he has completed two thirds of the sentence including remission. Such a prisoner is also entitled to annual parole.

22. Apart from regular parole. there is provision for release on parole in emergent cases. The Superintendent of Jail can grant parole up to a period of seven days subject to confirmation by the Inspector General, Prisons. The Inspector General of Prisons can grant parole for not more than 15 days. The emergent cases involving humanitarian considerations have been given in Rule 10A of the Parole Rules as; critical condition on account of illness of any close relations, death of any such relation; serious damage to life or property from any natural calamity, and marriage of a prisoner, his son, daughter, brother and sister.

23. A copy of the order for release of a prisoner on parole is to be endorsed to the next higher authority giving full circumstances under which parole has been allowed and if the higher authority does not approve the grant of parole, he may ask the authority granting parole to revoke the same.

24. Under the Parole Rules, the parole period is regarded as special remission and the aim in granting parole is to encourage good conduct. However, certain prisoners have been made ineligible for release on parole and they are : persons whose ordinary place of residence is outside the State of Rajasthan or who have been convicted by a Court of another State: persons convicted under the Explosive Substances Act, 1908, prisoners who have escaped from the Jail or Police custody or attempted to escape, persons convicted for the offences mentioned in Rule 14 (d) have also been made ineligible. for release on parole unless they have undergone one-fourth of sentence inclusive of remission and

the Superintendent of Jail recommends the case in consultation with the District Magistrate with special reasons there for. While granting parole to prisoners sentenced u/s 302.I.P.C., the circumstances of the case under which the murder was committed, shall be kept in view and favourably considered for parole. In case of breach of condition, parole order shall be revoked and punishment can also be awarded for breach of conditions of parole.

25. We have taken pains to refer to these rules and reproduced them specifically with a view to emphasise upon the executive authorities that basically they have to act according to these rules and consider the applications for grant of parole and not force the prisoners to approach this Court for grant of parole when they want to attend the marriage of a close relative or to attend a family member who is sick or has died or he has to appear in some examination or there has been loss or damage to the property on account of natural calamity. Applications for parole in such circumstances have to be considered and disposed by the Jail Superintendent, I.G. Prisons and if necessary by the District Magistrate expeditiously so that the prisoners may not have to approach this Court for release on petty grounds. It may be mentioned that the Executive Authorities have means to find out the correctness of the grounds on which parole is sought while this Court has to depend upon the information furnished by the Government Advocate, which in all cases is practically nil. Hence, this Court has to deal with petitions for release on parole without being able to verify the correctness of the grounds. We have not counted the numbers but annually a large number of applications come up before this Court for grant of parole which in normal course ought to have been disposed by the executive authorities.

26. Release on parole for a short period or even the permanent release on parole is not very much different from the shortening of sentence. In cases of temporary release on parole, a prisoner has to surrender and undergo the remaining period of his sentence while in cases where the sentence has been shortened, the punishment is complete but he can be rearrested when the release is conditional and he commits the breach of the terms of release as contained in form No. 11 appended to the Rules. After permanent release on parole also, a person can be ordered to undergo the unexpired part of his sentence in case he commits a breach of the conditions. The permanent release on parole is always conditional, as the effect of a permanent parole is the commutation or remittance of the sentence this benefit shall be available to prisoners convicted of offences for which death sentence is also one of the sentences but he is to be released only after undergoing 14 years" actual punishment as the Rules cannot override the provisions of the Code.

27. Under Rule 15 (c) of the Parole Rules, remission already earned by the prisoner as well as the period of release on parole shall be counted as imprisonment served by him.

28. We have been assisted in arriving at the conclusions not only by Shri R. S. Chauhan, who opened the arguments but also by Shri R. Kapoor, Shri M. A.

Khan, Shri N..C. Chaudhary, Shri D.V. Tholia and the Government Advocate Shri S. R. Yadav, and the answers to the questions framed by us are that :-

(1) Life imprisonment means imprisonment for life meaning thereby that a person sentenced to life imprisonment should be in jail till he breathes his last but the appropriate Government has the power to suspend, or to remit or commute the sentence.

The Shortening of Sentences Rules and Parole Rules, have been framed and even a life convict can be released from the prison :

(a) When the person has been sentenced to imprisonment for life for an offence for which death is also one of the punishments, after completion of actual imprisonment for 14 years in case the conviction is made after 18th Dec. 1978;

(b) A person sentenced to life imprisonment for an offence for which death penalty is not one of the punishments, or for more than 14 years imprisonment will be eligible for consideration for premature release after he has served two-thirds of his sentence or 13 years 8 months of imprisonment including remission whichever is less. Life imprisonment for purposes of these" Rules shall be construed as twenty years as is given in Prisons Rules; and

(c) Where conviction is prior to 18-12-1978, the person sentenced to life imprisonment has completed 13 years 8 months of imprisonment including remission or two-thirds of the sentence whichever is less.

The above petitions be listed before this Bench for separate orders in each petition.