IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C.P No. D-1474 of 2019
[Altaf Ali Buriro v. P.O Sindh & others]

Before:
Mr. Justice Zulfiqar Ali Sangi
Mr. Justice Riazat Ali Sahar

Counsel for Petitioner:	Mr. Shabbir Ali Bozdar, Advocate.
Counsels/ Representatives for Respondents:	Mr. Shahriyar I. Awan, Assistant Advocate General. Mr. Gulzar Ahmed Malano, Assistant Prosecutor General. Mehboob Ali [Respondent No.5] present in person].
Amicus Curiae	Mr. Abdur Rahman Faruq Pirzada, Advocate.
Date of Hearing:	25-09-2025
Date of Judgement:	25-09-2025

J U D G M E N T

RIAZAT ALI SAHAR, J:- The petitioner has impugned the premature release of respondent No.5/convict, who had been tried and convicted in Sessions Case No.43 of 1998, re: *State v. Mehboob Ali*, arising out of Crime No.53 of 1998 registered at Police Station Daharki, for offences punishable under Sections 302, 324, and other provisions of the Pakistan Penal Code, 1860. The learned 1st Additional Sessions Judge, Ghotki, sentenced the said convict to life imprisonment, which conviction was subsequently upheld by this Court in Criminal Jail Appeal No. D-15 of 2004 through judgment dated 08.10.2019. Notwithstanding the subsistence of this judicial determination, the respondent No.5 was released by the jail authorities after serving less than thirteen years of actual imprisonment. The petitioner has assailed such release on the ground

that it is contrary to law as well as the applicable Prison Rules, and has therefore approached this Court seeking the following reliefs:

> *"a) That this Hon'able Court may be pleased to declare the acts of the respondents by giving special treatment to the respondent No.5 for substantive sentence less than 13 years as life imprisonment, though the same is against the law and Prison Rules which may be declared as null and void.*
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> *b) That this Hon'able Court may be pleased to direct the respondents No.1 to 4 to produce the entire remission's record of the respondent No.5, under what law and capacity, they have given him extra remission more than his served out sentence, though the other Prisoners have been deprived by the respondent No.4 regarding extra remission.*
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> *c) That this Hon'able Court may be pleased to direct the respondent No.1 and 2 to take the disciplinary action against the respondent No.4 and other responsible officials/persons, who have given the extra remission to the respondent NO.5 from above served out sentence, though he has not given the same treatment to the Prisoner as Annexure "E and F".*
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> *d) That this Hon'able Court may be pleased to direct the respondent No.2 and 3 to re-examine the remission period of the respondent No.5 and he may be treated according to law and Prison Rules and follow the Judgment of Hon'able Apex Court.*
>
> *e) That this Hon'able Court may be pleased to restrain the official respondents not to release the respondent No.5 after completing his remaining portion of sentence as required under the law and Prisons Rule, till the final decision of the instant petition.*
>
> *f) To award the cost of petition.*
>
> *g) To grant any other relief, which deems fit and proper under the circumstance of instant petition".*

2. Learned counsel for the petitioner contended that respondent No.5, having been convicted of a heinous offence, could not lawfully be released unless he had undergone a minimum of fifteen years of substantive imprisonment. It was urged that the remissions purportedly granted to him were devoid of proper legal foundation, particularly in view of Rule 216 of the Prison Rules, which mandates that cogent reasons must be duly recorded before any remission is awarded. Counsel emphasized that the jail authorities possess no

authority to exercise powers comparable to those vested exclusively in the President of Pakistan under Article 45 of the Constitution, who alone enjoys plenary powers to extend special remissions. The impugned exercise of discretion by the jail authorities, therefore, was wholly unauthorized and tantamount to a grave denial of justice to the complainant as well as to the bereaved family of the victim.

3. Learned Law Officers, appearing on behalf of the State, candidly conceded that the release of respondent No.5 was not in accordance with law. They drew attention to the comments submitted by the respondents, which confirmed that while the President of Pakistan had granted special remissions amounting to nine years, one month, and fifteen days, the balance of the remissions had been mechanically extended by the jail authorities. Such action, it was contended, stood in clear conflict with binding judicial precedent as well as the relevant provisions of the Prison Rules. The Law Officers, therefore, supported the petitioner's plea that respondent No.5 be forthwith taken into custody and remanded to prison to serve the unexpired portion of his sentence.

4. Mr. Abdur Rahman Faruq Pirzada, the learned *Amicus Curiae* appointed by this Court to assist in the matter, has already filed his written synopses, wherein he advanced a considered submission. He contended that Article 45 of the Constitution of the Islamic Republic of Pakistan unequivocally confers plenary powers upon the President, which are absolute in nature and not subject to limitation or curtailment by any form of subordinate legislation, including the Prison Rules. Learned *Amicus* maintained that respondent No.5 had lawfully earned remissions, encompassing both special remissions granted under the constitutional prerogative of the President and general remissions available under the statutory framework. In his view, therefore, the release of respondent No.5 could not be termed unlawful, as it was consistent with the broader constitutional scheme and the President's prerogative power of clemency. To fortify his contention, he placed reliance upon the

authoritative pronouncement of the Honourable Supreme Court in the case of ***Haji Abdul Ali v. Haji Bismillah and others*** **(PLD 2005 SC 163),** wherein the scope and effect of Article 45 were duly considered and affirmed.

5. Respondent No.5 appeared in person and submitted a statement accompanied by a copy of the synopsis earlier filed by Mr. Abdur Rahman Faruq Pirzada, learned *Amicus Curiae*, on 29.03.2023. He further submitted that the said synopsis may be adopted and treated as his own arguments in the matter.

6. We have heard learned counsel for the petitioner, AAG, APG and learned Amicus Curiae and perused the material available on record including the case law cited before us with their able assistance.

7. In Islamic law, the protection of life is a foundational objective. The Qur'an emphasizes that life is sacred and must not be taken without just cause. It declares, for instance, *"whoever kills a person—except as lawful retribution for murder or for spreading corruption in the land—it is as though he had killed all of mankind"[Qur'ān 5:32]*. This verse underlines the gravity of unlawful killing, equating one murder with mass murder in terms of moral culpability. Correspondingly, *murder (qatl)* is deemed a most heinous sin, met with the stern warning that **"whoever kills a believer intentionally, his recompense is Hell, to abide therein forever, and the wrath and curse of Allah are upon him, and a dreadful penalty is prepared for him"** [Qur'ān 4:93]. The Prophet Muhammad (peace be upon him) likewise underscored the inviolability of life, stating in a well-known hadith: *"لا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ... إِلَّا بِإِحْدَى ثَلَاثٍ" – "It is not lawful to spill the blood of a Muslim except in one of three instances: the married person who commits adultery, a life for a life (in case of murder), and the one who forsakes his religion and departs the community"* [Sahih Bukhari, 6878]. This prophetic pronouncement (recorded in Sahih Bukhari and Sahih Muslim) encapsulates the classical Islamic position that capital punishment is reserved for only

the most serious offenses, **"a life for a life"** being foremost among them.

8. Islamic jurisprudence, derived from the Quran and Sunnah, establishes **qiṣāṣ (equal retaliation)** as the primary punishment for intentional homicide. The Qur'ān commands: *"O you who believe! Retaliation (qisas) is prescribed for you in cases of murder… but if one is pardoned by his brother (the victim's heir) in any way, then (blood-money) should be followed up with fairness and payment made courteously. This is an alleviation and a mercy from your Lord"* (Qur'ān 2:178), thereby affirming that while the law of equality permits capital punishment, mercy and forgiveness are encouraged through the option of **diyah** (compensation). The very next verse highlights the wisdom of qisas: *"And there is life for you in retribution, O people of understanding"* (Qur'ān 2:179), emphasizing that just retribution serves as a deterrent and upholds the sanctity of life by curbing blood feuds. This framework balances justice and compassion by empowering heirs of the victim to pardon the offender, while also allowing the state to impose **taʿzīr** (discretionary punishments) short of death when appropriate. Significantly, however, neither the Qur'ān nor authentic ḥadīth prescribes **life imprisonment** as a punishment; classical Islamic penalties for grave crimes were either fixed punishments (ḥudūd or qiṣāṣ) or discretionary measures (taʿzīr), which could include temporary detention but not incarceration for one's natural life. Early Islamic rulers did employ prisons in a limited capacity—such as Caliph Ali (A.S) establishment of a prison in Kūfah—but these were primarily for holding the accused pending trial or for short-term confinement. Thus, the modern concept of "life imprisonment" spanning decades has no direct precedent in Islamic scripture, where punishments focused instead on swift justice, restitution, corporal penalties, or execution.

9. The notion of sentencing an individual to spend the remainder of their natural life behind bars is largely a product of modern legal systems, which Muslim jurisdictions gradually adopted

in the 19th and 20th centuries as they codified criminal laws. This development can be viewed through the prism of *siyāsah shar'īyah* (Islamic governance policy) and the objectives (*maqāṣid*) of Sharī'ah. One of the chief objectives is the preservation of life. In contemporary times, many Muslim countries, including Pakistan, have introduced life imprisonment as an alternative to capital punishment, aiming to protect life by avoiding excessive use of the death penalty while still punishing heinous offenders. Scholars have opined that this adaptation does not contravene any specific Islamic injunction; rather, it is an extension of *ta'zīr* (discretionary punishment) by the state, exercised in the interest of justice and public welfare. In fact, Islamic scholars are not unanimous on long-term incarceration – some accept it as a valid *ta'zīr* penalty given the ruler's mandate to maintain order, others criticize it for deviating from the more rehabilitative or restitutive nature of traditional punishments, and a few even deem it inhumane by Islamic standards. Nonetheless, it is broadly recognized that **life imprisonment is not per se prohibited by Islam**, even if it finds no direct mention in the primary sources. So long as the punishment serves the aims of Sharī'ah – protecting society and deterring crime while upholding human dignity – its use is seen as within the sovereign's discretion. This reasoning has underpinned the incorporation of life imprisonment into Pakistani law as a penalty for murder and other grievous offenses, in parallel to (and sometimes in lieu of) capital punishment.

10. In the legal system of Pakistan, the concept of life imprisonment is a legacy of the subcontinent's colonial legal framework. The Indian Penal Code of 1860 (adopted after Independence as the Pakistan Penal Code 1860, or "PPC") introduced "transportation for life" (a sentence to penal exile for life) which later evolved into the modern sentence of "imprisonment for life". The PPC and accompanying criminal procedure laws thus formalized life imprisonment as a punishment distinct from the death penalty. Notably, the PPC never defined life imprisonment as a fixed term of

years; in principle, a life sentence meant imprisonment for the remaining natural life of the convict. However, **a widespread misconception took root in jurisprudence and public discourse that 'life imprisonment' is equivalent to 25 years**. This notion stemmed from Section 57 of the PPC, which provides that, *"In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty-five years."* By its plain language, Section 57 is a technical rule for calculation (for example, to determine what "half of a life sentence" would be for purposes of remissions or consecutive sentences). It does **not** stipulate that a lifer must be released after 25 years. Yet, for decades, many treated 25 years as the de facto duration of a life term, absent a formal commutation or remission. This interpretation was reinforced by administrative practices and some early court rulings, creating an expectation that a life prisoner who earned sufficient remissions could walk free after 25 years, and in some cases even earlier.

11. Our jurisprudence on the exact length and nature of a life sentence has gradually matured. As early as the 1990s, and more emphatically in the 2000s, the courts dispelled the myth that a life term is capped at 25 years. Section 57 does not curtail the actual duration of imprisonment – it is the **executive's prerogative** (under commutation and remission powers) to remit part of the sentence, but unless such clemency is granted, a prisoner *must remain in custody till death*. This view was poignantly reiterated by the Honourable Supreme Court in 2019, when it was questioned why a life sentence is commonly treated as 25 years when the law itself specifies no such limit. [***Haroon Rashid alias Shahid vs. The State (Miscellaneous Application no. 843 of 2019 in Criminal Appeal No. 293 of 2001)***]. It was remarked that if the law were correctly interpreted, convicts might *prefer* a death sentence over a true life term, given the prospect of spending their natural life in prison.

12. Despite "life means life" being the doctrinal position, Pakistan's statutes and prison rules have long provided that a lifer must serve a

certain minimum period before any routine release. The power of the executive to commute sentences is recognized in Section 55 PPC, which allows the government to commute a life sentence to a term not exceeding 14 years. Likewise, Section 401 of the Code of Criminal Procedure 1898 ("Cr.P.C.") empowers the provincial government to remit sentences, including life terms. In the exercise of these powers, as well as under the Prison Rules, a practice developed whereby a life convict generally became eligible for consideration of release after **15 years of actual imprisonment**, provided the rest of the sentence (to make up 25 years) was covered by remissions. The figure of 15 years actual custody emerged because, under the Prison Rules, various categories of remissions (earned for good conduct, work, education, and special occasions) could together account for up to 10 years' reduction. Thus, 15 years in jail + 10 years remitted = 25 years, giving the illusion that "life=25". Crucially, however, it is a settled principle of law that no matter how many remissions are earned, a life sentence cannot be reduced to less than 15 years of actual imprisonment. The Supreme Court has consistently held that remissions, no matter how liberally granted, cannot have the effect of releasing a life convict before he has served at least fifteen calendar years behind bars. [For instance, ***Nazar Hussain v. The State*** (PLD 2010 SC 1021)]. Any interpretation to the contrary would not only contradict the statutory scheme (since Section 55 PPC sets 14 years as a commutable term only by formal government order, not by routine remission), but would also undermine the punitive and deterrent purpose of a life sentence

13. The leading case on this point is ***Nazar Hussain*** *(supra)*, in which the Honourable Supreme Court, after an exhaustive review, affirmed that a prisoner sentenced to life remains under sentence **for the entirety of his natural life**. The Apex Court in ***Nazar Hussain's*** case (supra) underscored that while a life convict may be considered for release after 15 years (per the applicable prison rules and executive policies), any release before actually serving 15 years would be unlawful unless a higher sovereign power (e.g. the President) had unequivocally ordered such release. More recently, in ***Government of***

Khyber Pakhtunkhwa v. Wali Khan **(PLD 2022 SC 253),** the Supreme Court reiterated these principles and put to rest any residual confusion. It was held that **life imprisonment is not a term of years but a sentence to incarceration for life**, and that the widely cited "25 years" is relevant only for the purpose of remissions and concurrent sentencing calculations, not as an automatic expiry of the sentence. The Apex Court in *Wali Khan*'s case (supra) reinforced that **at least 15 years of actual imprisonment must be served** by a lifer; any remission that purports to reduce the period of custody below this threshold is inconsistent with law and thus inoperative. Both *Nazar Hussain* and *Wali Khan*'s cases (supra) stress that premature release of a life convict – without the convict having actually spent 15 years in jail – amounts to a distortion of the sentence imposed by the court, and is impermissible. In simple terms, a life sentence in Pakistan means imprisonment for the rest of the convict's natural life. However, the person may be released earlier only if the President or other competent authority lawfully exercises clemency powers, such as remission or commutation. Even then, the convict must have served at least 15 years of actual imprisonment, unless an extraordinary pardon, remission or special order is granted by the President under Article 45 of the Constitution.

14. The above jurisprudence is undergirded by fundamental legal maxims of penal law. **"*Nullum crimen sine lege"*** – there is no crime without a law – and **"*nulla poena sine lege"*** – there is no punishment without a law – are cardinal principles. They ensure that no one may be convicted or punished except under a clear warrant of law. In the context of life sentences and remissions, these maxims imply that the nature and extent of punishment (including any reduction thereof) must have a legal basis. **No authority may alter a judicial sentence in a manner not sanctioned by law**; a prisoner cannot lawfully be set free by administrative fiat when the law mandates continued detention. Additionally, the maxim **"*de duobus malis, minus est semper eligendum"*** – *"of two evils, the lesser must always be chosen"* – guides judicial and executive discretion. In sentencing and

clemency matters, this principle translates to choosing the course that does the lesser harm to the law and society. Between the *"evil"* of detaining a convict for a lengthy term and the *"evil"* of truncating a lawfully imposed sentence (thus risking public safety and undermining rule of law), the lesser evil is to uphold the sentence. Indeed, a murderer's inconvenience in prison cannot outweigh the societal interest in justice and the victim's right to see the punishment duly served. The Supreme Court's insistence on a minimum **15-year actual custody for lifers** reflects this value judgment – it is deemed the lesser harm to require the convict to serve a substantial portion of his life term than to allow a premature release that would erode confidence in the justice system.

15. Life imprisonment as a punishment in our country finds its legal foundation in the Pakistan Penal Code, 1860. The PPC prescribes "imprisonment for life" for offenses like murder [Section 302(b) PPC] and other heinous crimes. While the PPC itself does not quantify this punishment in years, it provides certain related provisions. As noted, Section 57 PPC equates life imprisonment to 25 years only for the limited purpose of calculating fractions of terms. Section 55 PPC empowers the appropriate government (Federal or Provincial, as the case may be) to *commute* a sentence of life imprisonment to a term not exceeding fourteen years. This means the executive can formally reduce a life term to a fixed term of up to 14 years – but absent such formal commutation, the sentence legally remains life-long. In addition, Section 401 Cr.P.C. authorizes provincial governments to *remit* sentences (in whole or part) at any time, which includes the power to remit portions of a life sentence- The exercise of this power, however, is regulated by rules and longstanding practice. The Prisons Act 1894 and the Pakistan Prison Rules (often derived from or contained in the Jail Code) lay down the framework for earning remissions. Prison Rules typically categorize remissions into ordinary remissions (earned through work, discipline, education etc.), and special remissions (granted on special occasions or by special orders). A key rule – referred to by learned counsel in this case – is

Rule 216 of the Pakistan Prison Rules, which mandates that reasons must be recorded for awarding any remission beyond certain limits. This is to prevent arbitrary or overly generous remission that defeats the intent of the sentence. The Rules, read with policy circulars, generally bar prison authorities from reducing a life sentence below 15 years of actual imprisonment through remissions. For instance, a prisoner serving life may accumulate ordinary and special remissions, but these cannot ordinarily be allowed to bring the total period in custody below the 15-year mark (except pursuant to a higher executive act of clemency). The net effect is that, by statute and rules, the default punishment for life convicts is imprisonment for life, tempered by the possibility of earlier release only if the convict earns and is granted all remissions legally available (usually after 15 years) or receives a formal clemency.

16. Given the above legal framework, the superior courts have played an active role to ensure that life sentences and remission powers are applied in accordance with law, not personal whim. In *Nazar Hussain's* case (supra), the Supreme Court took cognizance that some life convicts were being released after serving periods as low as 8 or 10 years by aggressive application of remissions. The Court declared such releases illegal, holding that neither the Prison Rules nor any executive notification could authorize a reduction of the effective sentence below 15 years' actual imprisonment. It was affirmed that Section 401 Cr.P.C. and prison remissions cannot be used to frustrate the minimum service requirement that has crystallized in our law. In *Wali Khan's* case (supra) and other cases, the Court reiterated that any remission policy or jail practice permitting a life prisoner's release before 15 years is *ultra vires* (beyond legal authority).

17. An important aspect of this case is the distinction between constitutional clemency powers and remissions granted by prison authorities. Article 45 of the Constitution of the Islamic Republic of Pakistan vests in the President an unfettered power to

"grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or authority." This power is of the highest order – a prerogative of mercy – and is not subject to ordinary legislation or prison rules. In the case of **Haji Abdul Ali v. Haji Bismillah (PLD 2005 SC 163)**, it was affirmed that if the President grants a remission or pardon, **no "clog" in any Prison Rule or administrative policy can inhibit its effect**. This principle was later **reaffirmed** in a landmark judgment of the Supreme Court, wherein it was observed: *"under Article 45 of the Constitution, the President enjoys unfettered powers to grant remissions in respect of offenses, and no clog stipulated in a piece of subordinate legislation can abridge this power"* ***[Shah Hussain v. The State (2009 PLD 460)].*** In practical terms, this means that if the President, in exercise of Article 45, issues a special remission (for example, a one-time remission of several years to all life convicts on a national occasion, or a specific pardon to an individual), such order will take precedence over the Prison Rules. The usual restriction – such as the requirement to serve 15 years – **does not bind the President**. The Constitution is supreme, and an act of presidential clemency, advised by the Prime Minister, is an act of state that cannot be negated or questioned under any jail manual provision. This is in line with global practice, where the sovereign's or head of state's mercy powers operate above ordinary sentencing rules, as a matter of grace.

18. Separate from the President's exclusive domain, the provincial governments have statutory authority under Section 401 Cr.P.C. to remit sentences. Typically, provincial notifications are issued on occasions like Independence Day or Eid, granting general remissions (often a few months) to broad classes of prisoners – these are sometimes erroneously conflated with Presidential remissions, but they derive from statutory power and policy, not Article 45. Moreover, prison authorities (such as the Inspector General of Prisons and Superintendents) administer *earned remissions* under the Prison Rules. These include remissions for good conduct, work, education, and others sanctioned by the rules. **Such remissions are a creature of**

the rules and executive instructions – they are *subordinate* in rank and effect to the sentences handed down by the judiciary and to constitutional clemency. Jail authorities cannot transcend the limits set by law. They are bound, for example, to ensure that no matter how much remission is earned, a life convict serves the mandatory minimum period (15 years) unless a higher executive act (President or Provincial Government) explicitly orders otherwise. Any attempt by jail officials to *administratively abbreviate* a life sentence beyond what the rules permit is *ultra vires*. It is precisely this misadventure that occurred in the present case.

19. Respondent No.5 was convicted of murder and sentenced to life imprisonment; a sentence upheld on appeal. By law, he was required to serve the bulk of his natural life in custody, with a *potential* for earlier release only upon satisfying the stringent criteria for remissions (at least 15 years of actual sentence, plus earned remissions to aggregate to 25 years). However, as the record shows, Respondent No.5 was released after **serving less than thirteen years** of actual imprisonment. Such a release blatantly contravenes the legal principles discussed. It meant a life sentence was effectively truncated to nearly half of the minimum required period. The prison authorities appear to have added up various remissions to claim that the convict's "sentence" was complete, when in fact he fell short of the 15-year actual custody floor by a considerable margin. This Court finds that action unlawful. It is settled law that no matter how liberally remissions are granted, a life prisoner cannot be released from jail so early. Any administrative decision allowing such release is *ipso facto* void for being inconsistent with the sentences imposed by the courts and the governing legal framework. The premature release of Respondent No.5 was, therefore, without legal warrant and cannot be sustained.

20. The Respondents' own comments concede that Respondent No.5's release was secured by combining Presidential and non-Presidential remissions. The President of Pakistan had, as part of a

special initiative, and in the instant case he granted special remissions totaling **09-years, 01-month and 25-days** to the convict. This substantial remission under Article 45 is valid and protected – the Constitution allowed it, and there is no quarrel with its legitimacy. However, after applying these 9+ years of constitutional remission, the jail authorities went further and "mechanically" granted additional remissions on their own, treating the convict as having completed his sentence. Those additional remissions were presumably general remissions and other routine credits which, when added up, purported to exhaust the sentence when in reality the convict's actual custody was only 12 years, 02 months and 19 days. Such action by Respondents No.1 to 4 (prison and home department officials) was manifestly beyond their lawful authority. The law is clear that no jail authority or even provincial government can reduce a life sentence to below 15 years of actual imprisonment through remissions alone. The only way a lifer can be released earlier is via commutation of the sentence to a fixed term (per Section 55 PPC) or an extraordinary remission by the President or Governor. In this instance, no commutation to a 14-year term was made by the government, and the President's remission, albeit generous, still required the prisoner to serve the remainder up to the 15-year actual mark. The jail authorities' unilateral act to treat less than 13 years as equivalent to life imprisonment is patently illegal – it flouts both the Prison Rules and the controlling judgments of the Apex Court.

21. It bears emphasis that any *excess remission* granted without legal sanction is a nullity. Remission of sentence is not a matter of right but a concession, and it must be conferred strictly in accordance with law. General remissions are intended to reward good conduct and to facilitate reform, *within the boundaries set by law*. They cannot be used as a tool to subvert a judicial mandate. If an official, willfully or through a mistaken reading of the law, releases a prisoner in violation of the established minimum sentence requirement, the courts will intervene to correct the error. Our criminal justice system operates on the premise that while mercy is

available, justice shall not be sacrificed on the altar of unauthorized leniency. In the present case, the special remission by the President (**09-years, 01-month and 25-days**) being constitutionally granted, is unassailable – we give full effect to it. But even after giving the convict that benefit, he was obliged to serve about 15 years of actual imprisonment. By subtracting ordinary remissions beyond permissible limits, the prison authorities acted ultra vires, effectively usurping the power that only the highest executive authority could exercise. This court cannot countenance such a deviation from the law. In line with the maxim ***nulla poena sine lege*** (no punishment without lawful authority), the extra-statutory reduction of Respondent No.5's sentence is void and of no legal effect.

22. An ancillary but important point raised by the petitioner is the issue of equal treatment of prisoners. It was contended that Respondent No.5 was given ***"special treatment"*** not afforded to other inmates – effectively, that strings were pulled to get him out early, whereas other similarly placed convicts remained incarcerated. The record indeed suggests that Respondent No.5 received an extraordinary remission package with no parallel. If true, this would offend not only prison discipline but also fundamental rights, as every prisoner is entitled to equal benefit of law. However, since we find the impugned remission itself unlawful, the point of discrimination becomes somewhat academic – one illegality cannot justify another, and the appropriate remedy is to undo the illegality rather than extend it to others. That said, the perception of favoritism in the remission process undermines confidence in the rule of law. The jail authorities must apply remissions even-handedly, based on transparent criteria. Any deviation, as alleged by the petitioner, ought to be the subject of departmental inquiry and corrective action by the provincial authorities.

23. For the reasons detailed above, we conclude that the release of Respondent No.5 after serving roughly less than thirteen years of his life sentence was **premature and unlawful**. It contravened

explicit legal requirements and binding precedents. The special remissions granted by the President of Pakistan (to the extent of about nine years) were valid under Article 45 of the Constitution and have been duly credited to the convict. **However, the further remissions engineered by the jail authorities to facilitate Respondent No.5's early release find no support in law**. Such remissions, which reduced the actual custodial period below fifteen years, were a nullity and incapable of altering the sentence of life imprisonment. The net result is that Respondent No.5's sentence remained unserved to the extent of the period improperly remitted. His release, therefore, was based on an erroneous assumption of sentence completion.

24. In view of the foregoing, this Court was compelled to correct the miscarriage of justice. The petition was **allowed vide short order dated 25.09.2025**. The premature release order in favor of Respondent No.5 is declared to be **null and void**, having been made in excess of lawful authority. Consequently, Respondent No.5 was never legally a free man and remained a convict under sentence of life imprisonment. He was ordered to be taken back into custody through our short order announced on 25-09-2025, Respondent No.5 (who was present in Court on that date) was **remanded to Central Prison, Sukkur**, to serve out the remainder of his sentence upto fifteen years as an actual sentence in accordance with law. We reiterate that direction in this judgment. The respondent shall not be released until he has actually served at least fifteen years of imprisonment (inclusive of the time already served) and lawfully earned whatever remissions are admissible beyond that, or unless he receives some fresh clemency from a competent authority in the meantime, in which case the validity of such clemency would be tested on its own merits.

25. Before parting, we find it necessary to underscore the legal principles emerging from this case, which shall serve as a guide in future:

(i) A sentence of life imprisonment means imprisonment for the natural life of the convict, subject only to reduction by lawful exercise of clemency powers.

(ii) No executive or prison authority, by way of remissions or otherwise, can shorten a life convict's actual imprisonment below 15 years; any such attempt is illegal.

Provided that the President's power under Article 45 of the Constitution to grant remissions is absolute and cannot be fettered by prison rules. Remissions granted by the President will override any inconsistent rule (such as a rule requiring minimum imprisonment), but in the absence of Presidential or proper governmental clemency, prison rules and judicial precedent must be followed in letter and spirit.

(iii) Prison authorities must scrupulously record reasons for grant of any special remission (Rule 216, Prison Rules) and ensure that similarly placed prisoners are treated alike, to avoid any arbitrariness or discrimination.

(iv) If a life convict is released on the basis of remissions, the releasing authority must certify that the convict has served the requisite minimum term and that the remissions do not transgress the legal limits – failing which, the release will be void and the prisoner can be re-arrested to complete the sentence. These principles are not merely procedural; they are fundamental to maintaining the credibility and consistency of criminal justice.

26. The foregoing constitutes the reasons for our short order dated 25-09-2025, which is reproduced as under:-

> *"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 Jail 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".*

27. Let this judgment be communicated to the Inspector General of Prisons, Sindh, and the Home Department, Government of Sindh so that they may scrutinize whether officials violated rules or showed unwarranted favor in this case, and take action accordingly and same may be circulated to all concerned quarters for future corrections.

JUDGE

JUDGE

Sukkur

"Approved for Reporting"

Ahmad/P.S