

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.81 of 2016

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Sukhdeo Yadav, son of Late Girdhari Yadav, Resident of village- Rataitha, P.S.- Kharagpur, District- Munger. At present resident of village- Mahadoopur, P.S.- Khagrapur, District- Munger.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Ministry of Home & Affairs, Bihar, Patna.
2. The I.G. Prison, Bihar, Patna
3. The D.I.G. (Administration) Jail & Reforms Service Bihar, Patna.
4. The Superintendent, Special Central Jail, Bhagalpur.
5. The Superintendent, District Jail, Munger.
6. The Deputy Superintendent, District Jail, Munger.

.... Respondents

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Appearance :

For the Petitioner : Mr. Abdul Mannan Khan, Advocate
Mr. Binay Kumar, Advocate

For the Respondents : Mr. Prabhu Narayan Sharma, A.C. to A.G.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

2 21-01-2016 The petitioner, who has been convicted under Section 302 read with Section 34 of the Indian Penal Code and sentenced to suffer life imprisonment, by the judgment and order, dated 22.03.1993, passed, in Sessions Trial No.288 of 1989, by the Court of learned 3rd Additional Sessions Judge, Munger, has filed this writ application, under Article 226 of the Constitution of India, on the ground that he has already suffered 14 years of actual imprisonment, pursuant to the said conviction and the sentence passed against him, and that he needs to be

allowed to be released by granting him remission in terms of the law contained in that behalf.

Heard Mr. Abdul Mannan Khan, learned Counsel, appearing for the petitioner, and Mr. Prabhu Narayan Sharma, learned Assistant Counsel to Advocate General, appearing on behalf of the respondents.

There is no dispute before us that the petitioner's case is covered by the judgment, dated 19.01.2016, passed, in Cr.W.J.C. No.1042 of 2015, (Tarachand Kapari @ Taranand Kapari @ Karo Kapri *Versus* The State of Bihar & Ors.) by this Court.

In view of the above, this application is disposed with a direction to the respondents to consider the case of the present petitioner in accordance with law keeping in view the decision of this Court in Cr.W.J.C. No.1042 of 2015.

The decision on the question of release of the petitioner by granting him remission shall be considered and decided, as indicated above, within a period of three months. This direction for consideration shall not be taken to mean that we have mandated the State Government to *remit* the petitioner's sentence of *imprisonment for life* to a sentence of imprisonment for a term and we, thus, leave it to the judicious

discretion of the State Government to *remit* or not to *remit* the petitioner’s sentence of *imprisonment for life*. We, however, make it clear that in case the State Government decides not to *remit* the sentence of imprisonment passed against the petitioner; it must assign reasons for not giving him *remission*, which is, ordinarily, given to other similarly situated prisoner(s).

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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