IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.778 of 2017

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Kapil Singh @ Kapildeo Singh, son of Prakash Singh, resident of village- Shiwanpur, P.S.-Navi Nagar (Naradi Khurd), District- Aurangabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Dept. of Home, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. Inspector General Prison & Reform Services, Govt. of Bihar, Patna.
4. The Secretary Law Department, Govt. of Bihar, Patna.
5. Additional Director General of Police Crime & Investigation Department, Bihar, Patna.
6. Director Parviksha Services Bihar, Patna.
7. The Superintendent of Police, Aurangabad.
8. The Jail Superintendent, Central Jail, Buxar.
9. The State Sentence Remission Board through its President/Chairman.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Mithilesh Kumar Rai, Advocate
Mr. Virendra Roy, Advocate.
Mr. Lakshman Lal Pandey, Advocate
For the Respondent/s : Mr. Krishna Chandra, AC to AG.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)
Date: 19-05-2017

Heard learned counsel for the petitioner and the State.

The petitioner's request for his premature release has been refused by the State Sentence Remission Board vide order contained in Annexure-3 on the ground that it is a case of multiple murder and there is no clear opinion of the Presiding Officer.

So far as the first issue is concerned, that is no longer *res integra* as that has been dealt with and considered in detail by a

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coordinate Bench of this Court on several occasions. For example- in case of Ram Naresh Rai Vs. State of Bihar and Ors. (Cr. W.J.C. No.1053/2016 disposed of on 21.11.2016), thereafter, in case of Nagina Rai Vs. State of Bihar and Ors. (Cr.W.J.C. No.953/2016 with analogous cases disposed of on 22.12.2016) as also in case of Ramadhar Singh Vs. State of Bihar and Ors. (Cr. W.J.C. No.1245 of 2016 disposed of on 15.12.2016). It has been held that a change which has been made in the policy in the year 2016 cannot be made applicable to a person who was convicted prior to coming of such policy. A reference in this regard has been made to a decision of the ***Apex Court rendered in State of Haryana Vs. Jagdish (2010) 4 SCC 216*** holding that it is the law that obtains on the day when conviction order is first passed which would guide the rights of the party to get the remission or suspension of sentence. Any subsequent change to the prejudice of the convict will not affect him but any benefit or relaxation that is given subsequently would inure to his benefit.

As such, this writ application is being disposed of at this stage with the consent of the parties as this issue stands already decided.

So far as the other issue that the Presiding Officer has not given clear opinion, it does not appear from the opinion quoted in the order at sl.no.25 with respect to the petitioner of the Annexure-3 that

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any adverse remark has been given against the petitioner rather it is stated that the Presiding Officer has no objection in implementation of the laws, rules and manuals which obviously has been written with respect to the implementation of the same with respect to the petitioner.

In above view of the matter, in our considered opinion, the order, as contained in Annexure-3, so far it concerns to the petitioner, is not at all sustainable in law and, as such, the same is quashed and set aside. The State Authorities are directed to submit a fresh proposal for premature release of the petitioner in accordance with law before the State Sentence Remission Board which should be considered by it in the next meeting.

This disposes of the writ application.

(Dr. Ravi Ranjan, J)

(Vikash Jain, J)

V.K. Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2017
Transmission Date	NA

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