

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No 103 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- SARAN

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Gorakh Nath Singh, son of late Ram Swaroop Singh, resident of Village – Mohammadpur, PS – Garkha, District - Chapra

.... Petitioner/s

Versus

- 1 The State of Bihar through the Principal Secretary Dept of Home, Govt of Bihar, Patna
- 2 The Principal Secretary, Department of Home, Government of Bihar, Patna
- 3 Inspector General, Prison & Reform Services, Government of Bihar, Patna
- 4 The Secretary, Law Department, Government of Bihar, Patna
- 5 Additional Director General of Police, Crime & Investigation Department, Bihar, Patna
- 6 Director, Parviksha Services, Bihar, Patna
- 7 The District & Sessions Judge, Patna
- 8 The District & Sessions Judge, Saran at Chapra
- 9 The Superintendent of Police, Buxar
- 10 The Superintendent of Police, Saran at Chapra
- 11 The Jail Superintendent, Central Jail, Buxar
- 12 The Jail Superintendent, Divisional Jail, Saran at Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Mithilesh Kr Rai, Virendra Kr Rai,
Lakshman Lal Pandey &
Ms Vandana Kisku, Advocates

For the State : Mr Prabhu Narayan Mishra, AC to AG

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE MR JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 02-02-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

By this writ petition, the petitioner has sought early
release from judicial custody where he is serving out life sentence.

The State Sentence Remission Board (for brevity, *the Board*) has



rejected the claim of the petitioner primarily on two grounds. Firstly, he was accused in multiple murder cases and secondly, the trial Court opined that he, having been found guilty, was convicted.

We have considered the matter and, in our view, both the grounds appear to be misconceived. Firstly, it is not in dispute that the petitioner was convicted in the year, 2001. It has now been settled by series of judgments that the provisions for grant of remission have to be those which were on the day when a person was convicted and subsequent change cannot create impediment on the right that has accrued to him earlier. The prohibition, of release of a person prematurely on ground of multiple murder, was introduced in the Jail Manual much later. That cannot take away the right which was there at the time when he was convicted. Secondly, the trial Court has looked to the question in absolutely wrong perspective. The question of remission or a premature release comes only after a person is convicted and is serving out sentence, then to say that he has been held guilty and sentenced and, thus, deserves no mercy, is putting the cart before the horse.

We thus, while setting aside the decision of the Board dated 29.06.2016, remit the matter to the Board for consideration in accordance with law.

It may be noted that the petitioner is about 83 years of



age and it is expected that the Board would reconsider the matter within 30 days from today.

With this observation and direction, this writ petition stands disposed of.

(Navaniti Prasad Singh, J)

M.E.H./-

(Vikash Jain, J)

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