

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.199 of 2017

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

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Ram Ishwar Paswan, Son of Karu Paswan, R/o Village+P.S.- Parasbigaha, District-
Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The State Remission Board, Patna.
3. The Director General of Police, Government of Bihar.
4. The I.G. Prison, Government of Bihar, Patna.
5. The Superintendent of Police, Jehanabad.
6. The Jail Superintendent, Central Jail, Gaya.
7. The Probation Officer, Jehanabad.

.... Respondents

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Appearance:

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 27-02-2017

The petitioner has filed this writ application for his premature release from custody where he is serving out sentence as a consequence of his conviction for an offence, inter alia, under Section 302 of the Indian Penal Code.

The petitioner has completed more than twenty years of physical imprisonment and claims as per the Government Policy, Provisions of the Prisons Act and the Jail Manual in terms of Section



432 of the Code of Criminal Procedure that he is entitled to be released from custody. He has also pointed out that at least two other co-accused of the same trial has been released as far back as in the year 2011 itself and even though the petitioner's case is on similar ground, for some strange reasons, he was not considered for release.

A counter affidavit has been filed on behalf of the Superintendent of Jail, Central Jail, Gaya stating that the Bihar State Remission Board (for brevity "the Board") has considered the matter of the petitioner and vide the resolution passed in the meeting dated 17.02.2017, the Board has recommended the pre-mature release of the petitioner.

We are surprised that even though the recommendation has been made ten days back, why the petitioner has not yet been released.

Learned counsel for the State states that as per the procedure, the matter now has to come to the Law Department which would concur with the same and then it will be sent to the Home Department for minister's approval.

We are surprised that because both the Law Secretary i.e. legal impersonator and the Home Secretary are parties to the Board itself. Once the Board recommends why it has to again move to the same very department. All we can say that this gives rise to



inappropriate practices.

In a democratic society governed by the Rule of Law, such democratic procedure should be avoided. As recommendation for the release of the petitioner has been made, we say no further.

The petitioner has raised that another similarly situated co-accused was released in the year 2011 itself, but his case was not considered. This Counter affidavit of State filed today deals with this aspect of the matter. The less said, the better.

The counter affidavit states that the matter of the petitioner was also received in the Board in the year 2011. Reminders were sent to the office of the Superintendent of Police for his comments for almost three years. Though Superintendent of Police responded in respect of other co-accused and did not respond in respect of the petitioner. The State being helpless could not consider his case. We would not like to say more. What were the considerations, when the Superintendent of Police had responded in respect of two other co-accused why he did not respond in respect of the petitioner. Why in spite of repeated reminders by the Board, he chose to ignore the Board is neither stated nor understandable. Inasmuch as the Secretary, Home which controls the police establishment is a party to the Board. The Law Secretary is also a party. They are unable to persuade the Superintendent of Police who



sent the report. Surely there is something rotten in the system. Let these things which give rise to inappropriate practices at different levels be brought to the notice of the Chief Secretary, Government of Bihar, Patna. Let a copy of this be forwarded to him.

As the said Board has already made recommendation for pre-mature release of the petitioner, the same be acted upon with expedition.

Consequently, this application stands disposed of.

(Navaniti Prasad Singh, J)

(Vikash Jain, J)

Mishra

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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