

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.766 of 2017

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

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1. Birendra Jamadar, Son of Lala Jamadar,
 2. Lala Jamadar, Son of Late Bishu Jamadar, both resident of Village- Atram-Chak, P.S. Akangarsarai, District- Nalanda.
 3. Rajkishor Bind, Son of Jamadar Bind, resident of Chapraithi, P.S. Rasulpur, District- Chhapra.
 4. Tahir Mian, Son of Late Wahid Mian Village Karimchak, P.S. Chhapara Town District Chhapara.
 5. Krishni Mahto, Son of Bandhu Mahto, resident of Village Saindih, P.S. Giriyak District Nalanda.
 6. Nawal Prasad, Son of Late Mahesh Prasad,
 7. Shivjee Prasad, Son of late Mahesh Prasad, both resident of Village Misarbaliya P.S. Manjhargarh, District- Gopalganj.
 8. Hira Sharma @ Hira Lohar, Son of Lutan Lohar, Resident of Village Ekdanga P.S. Mirganj, District Gopalganj.
 9. Jawahir Choudhary @ Jawahar Choudhary, S/o Chhabila Choudhary, Resident of Village Khairati P.S. Husainganj, District Siwan.
 10. Sabir Ansari, Son of Karamat Ansari, resident of Village- Belhikhas, P.S. Katiyan District- Gopalganj.
 11. Gajalwa Halwai, Son of Late Ramprasad Halwai, resident of Village Nursarai, Naya Tola, P.S. Nursarai, District- Nalanda.
 12. Ramshakal Kuer, Son of Late Naga Kuer, resident of Village Dumariya P.S. Mohamadpur District- Gopalganj.
 13. Dudhnath Dusad @ Dudhnath Manjhi, Son of Saral Manjhi Village Amwan P.S. Gopalganj District Gopalganj.
 14. Munarik Yadav, Son of Late Sita Ram Yadav, resident of Tetariya, P.S. Magadh University District- Gaya.
 15. Dinesh Kumar Mahto, Son of Yugeshwar Mahto, resident of Village- Kamraw P.S. Dalsingsarai, District- Samastipur.
 16. Radheshyam Malakar, Son of Late Jagdish Malakar, resident of Village- Chakbiduliya P.S.- Bibhutipur, Distt.- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar at Patna.
2. The Secretary, Home Department Cum Chairman State Sentence Remission Board, Bihar, Patna.
3. The Commissioner, Home Special Government of Bihar, Patna.
4. The Inspector General (Prison) Government of Bihar, Patna.
5. The Jail Superintendent Open Jail Buxar,
6. The Jail Superintendent Kendriya Kara Buxar.
7. The Jail Superintendent Kendriya Kara Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate



For the Respondent/s : Mr. Umesh Prasad, Advocate
Mr. Md. N. H. Khan (S.C. 1)
Ms. Babita Kumari, A.C. to S.C.1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 07-07-2017

Heard learned counsel for the petitioners and the State.

Through this writ application the petitioners, who have been convicted for life under Section 302 of the Indian Penal Code by different district courts and that has been detailed in paragraph no. 4 of the petition, seek their pre-mature release on account of the fact that they have completed 14 years of actual incarceration and 20 years with addition to the remission period.

A counter affidavit has been filed on behalf of Respondent nos. 1 to 7. It is stated that so far petitioner no. 1 is concerned, he has merely completed 18 years 03 months and 23 days after addition of actual incarceration with the remission period. Unless he completes 20 years as such, as per the policy decision of the State, his case for pre-mature release cannot be sent to the Bihar State Sentence Remission Board. So far as petitioner no.4 Tahir Mian, petitioner no. 11 Gajalwa Halwai and petitioner no. 12 Ramshakal Kuer are concerned, it is stated that their case has been forwarded to the Bihar State Sentence Remission Board for its consideration and



there is every likelihood that their cases may be considered in the next meeting of the Bihar State Sentence Remission Board. So far other petitioners are concerned, it is stated in the counter affidavit that opinion of the Presiding Officer has not been received despite request being made and due to this reason their matters could not be sent to the Bihar State Sentence Remission Board till date.

In above view of matter, so far as petitioner no.1 is concerned, his case is directed to be considered immediately after the qualifying period of incarceration along with remission is completed by him.

So far the petitioners other than petitioners no. 4, 11 and 12 are concerned, we would direct the concerned presiding officers to send their opinion on their own merit expeditiously preferably within a period of four weeks from the date of receipt/production of a copy of this order. Thereafter, the cases of such petitioners be immediately sent to the Bihar State Sentence Remission Board to consider their cases and take a decision in accordance with law in its next meeting.

So far petitioners no. 4, 11, 12 are concerned, as per the statement, their cases should be considered by the Board in its next meeting.

Accordingly, this writ application is disposed of with the aforesaid observation and direction.



Let a copy of this order be immediately communicated by way of facsimile process/email to the presiding officer of the courts concerned as well as the District and Sessions Judge of the concerned districts so that compliance of the direction contained in this order could be ensured.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

sudip/-

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CAV DATE	
Uploading Date	
Transmission Date	

