

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.436 of 2017

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

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Bal Kumar Bhagat, son of Bijendra Prasad Bhagat, resident of village - Tamua, P.S.
- Chatapur, District - Supaul.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary-cum-Commissioner, Department of Home, Government of Bihar, Patna-cum-Chairman, Remission Board, Patna.
3. The Secretary, Department of Law, Government of Bihar, Patna.
4. The Director General of Police, Govt. of Bihar Patna.
5. The Inspector General of Police, Koshi Division, Saharsa.
6. The Inspector General (Jail and Reforms Service), Government of Bihar, Patna-cum-Member, Remission Board, Patna.
7. The Deputy Inspector General (Jail and Reforms Service), Government of Bihar, Patna.
8. The Director, Probation Service, Government of Bihar, Patna.
9. The Bihar State Sentence Remission Board, Patna through its Chairman.
10. The District Magistrate, Supaul, District - Supaul.
11. The Superintendent of Police, Supaul.
12. The Superintendent of Divisional Jail, Supaul, P.S. + District - Supaul.
13. The Probation Officer, Home (Jail), Department of Home, Supaul.
14. The S.H.O. Chhatapur Police Station, District - Supaul.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate
Mr. Manoj Kumar Gupta, Advocate
For the Respondent/s : Mr. Krishna Chandra, AC to A.G.

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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: 28-04-2017

We have heard learned counsel for the petitioner and the
State.

This application has been filed for a direction to the
respondents for premature release of the petitioner as his claim is that
he has already remained in custody for about 17 years 5 months and



16 days and has earned remission for about 5 years 4 months 6 days. A total thereof becomes 22 years 9 months and 22 days as on 20.01.2017.

It is contended that no action has been taken on his application filed for such purpose.

A counter affidavit has been filed on behalf of respondent nos.1, 2, 6, 8, 9 and 12 stating that the matter is pending for opinion of the Additional District and Sessions Judge-1, Supaul who happens to be the concerned Presiding Judge.

It is submitted that no sooner such opinion of the Presiding Judge is received, a proposal for premature release will be put up before the Bihar State Sentence Remission Board for its consideration. Learned counsel points out that when request was made to the concerned Presiding Judge vide Annexure-1 for transmitting his opinion, a show cause notice has been issued upon the Jail Superintendent, Supaul to appear and explain as to under which provision of law, he is issuing such letter seeking opinion. It is also stated in the notice, which has been appended as Annexure-2, that if nothing has stated, the matter would be sent to the High Court for necessary action.

Learned counsel for the State submits a Notification dated 26.05.2016 by which certain amendments in the Bihar Prison Manual, 2012 in exercise of powers conferred under Section 59 of the Prisons Act, 1894 and Section 432 of the Code of Criminal Procedure, 1973



have been made. Clause 5 thereof deals with amendment of Rule 482 of the Bihar Prisons Manual, 2012 and Sub-Section 2 thereof reads as under:-

“After sub-rule (v) of rule 482 of the Bihar Prison Manual, 2012 the following new sub-rule (vi) shall be added, namely-

(vi) The Superintendent shall obtain opinion of the Presiding Judge of the Court (before or by which the conviction was had or confirmed) whether to allow or reject the application for remission”.

Thus, in our opinion, no wrong has been committed by the Jail Superintendent in seeking such opinion from the Presiding Judge. Accordingly, the Presiding Judge is hereby directed to transmit his opinion on its own merit and in accordance with law within a period of one month to the Jail Superintendent. Thereafter, the matter should be placed before the Remission Board in its next meeting.

Let a copy of this order be communicated to the Additional District and Sessions Judge-1, Supaul.

This disposes of the writ application.

(Dr. Ravi Ranjan, J)

(Vikash Jain, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	1.05.2017
Transmission Date	1.05.2017

