

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2224 of 2017

Arising out of P.S. Case No.- Year- Thana- District- Patna

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Ram Babu Singh, Son of Late Laxman Singh, Resident of
Village- Kharaiya Pokhra, P.S.- Shahpur, District- Gorakhpur
(U.P.).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The State Sentence Remission Board through the Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Joint Secretary-cum-Director (Administration), Home Department, (Prison), Bihar, Patna.
4. The Secretary, Law Department, Government of Bihar, Patna.
5. The Additional Director General of Police, Criminal Investigation Department, Bihar, Patna.
6. The Inspector General, Jail and Reforms Services, Bihar, Patna.
7. The Assistant Inspector General, Jail and Reforms Services, Bihar, Patna.
8. The Jail Superintendent, Special Central Jail, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh

For the Respondent/s: Mr. P.N. Sharma, AC to AG

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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 : 01-12-2017

I.A. No. 2532 of 2017

Heard learned counsel for the petitioner and the

State.



This interlocutory application has been filed for amendment of the writ petition by addition of a relief for quashing the decision and recommendation dated 27.07.2017 of the Bihar State Sentence Remission Board (hereinafter referred to as “the Board”) which has been appended as Annexure 14 to the interlocutory application, so far it concerns the petitioner.

It is contended that once again the case of the petitioner for premature release has been rejected on the ground that there was adverse opinion of the Presiding Officer.

Learned counsel for the petitioner submits that this opinion was available to the Board on the earlier occasion also when the petitioner’s case was rejected on a different ground. It is urged that one by one the grounds are being taken by the Board to dislodge the petitioner’s claim.

Having regard to the facts and circumstances, we are inclined to allow this interlocutory application. The petitioner is permitted to assail the decision of the Board so far it concerns the writ petitioner.

Cr. W.J.C. No. 2224 of 2017



Heard learned counsel for the petitioner and the State.

This is the second time when the petitioner has approached this Court for a direction to the respondent authorities for his premature release on the ground that he has already completed 25 years of sentence with remission and more than 19 years of actual imprisonment in view of his conviction and sentence of rigorous imprisonment for life vide judgment of conviction and sentence dated 29.02.2000 passed in S.Tr. No. 128 of 1998. He had earlier approached this Court by filing Cr.W.J.C No. 563 of 2017 which was disposed of by order dated 19.05.2017, as contained in Annexure-13.

It appears from Annexure-13 that the State filed a counter affidavit earlier that the decision has been taken by the Remission Board in view of the amended provisions of Bihar Prison Manual, 2012, however, in view of the directions and guidelines issued by this Court directing the Remission Board to consider the proposal for premature release of the convicts on the basis of Remission Policy existing on the date of conviction itself, a fresh proposal for



release of the petitioner would be placed before the Remission Board.

Accordingly, Remission Board was directed to consider the matter without being prejudiced by its earlier decision and after considering the existing Remission Policy as well as the judicial pronouncements covering the field.

In the subsequent decision also the Remission Board has rejected the claim of the petitioner this time on the ground of adverse report of the Presiding Officer. The same has been appended as Annexure-14 to the interlocutory application. It appears therefrom that the Remission Board has rejected the claim on the basis of adverse report dated 13.06.2016, however, it is interesting to note that though the same was available and noted in the decision of Remission Board at the time of consideration of the petitioner's case on earlier occasion on 20.06.2016, however, the case was rejected on the ground that the petitioner was involved in heinous crime.

The Presiding Officer has also opined that since the petitioner has killed about six persons including the child of ten months for the greed of wealth and property which



amounts the heinous crime, as such, he is not entitled for such benefit.

Now, two questions would arise whether this should be the approach of a Presiding Judge for considering the case of a convict for premature release? If yes, then almost every case, in which rigorous imprisonment for life is inflicted, may amount to heinous crime. Then premature release cannot be granted in any case.

Second question which would be involved in the present case as to whether the Remission Board was bound by such opinion given by the Presiding Officer?

The issues are no longer *res integra* having been considered and decided by a Division Bench of this Court reported in **2017(2) PLJR 201 [Ravi Pratap Mishra Vs. The State of Bihar & Ors.]**.

After consideration in almost identical circumstance, it has been held what would be relevant is as to whether it emanates from the records that release of the prisoner would be detrimental for the peace and tranquility of the society. If a case is taken for consideration or premature release the board would have assistance/guidance of the report of the Superintendent of Police after considering the



report of the Officer In-charge of the Police Station as well as also conduct of the prisoner during the course of his incarceration which would also be available on record. He has to examine and form an opinion as to whether his release shall affect the society or not rather than to look into the records of the case and come to an opinion that crimes committed was heinous, thus, he should not be released for the reason that for committing such heinous crime he has already been convicted and completed substantive part of his sentence. The Division Bench has held that the report of any forum which is required for Remission Board for coming to a just and proper conclusion would not be binding upon it and, for the reasons recorded in the decision, the Remission Board may accept the opinion or may come to a different conclusion also.

Having considered the facts and circumstances of the case and the decision of the Division Bench discussed as above, we are also of the view that the opinion of the Presiding Officer as available in this case could not have been taken to be adverse to the petitioner sufficient to deny him the statutory relief under Section 432 of the Code of



Criminal Procedure and the Board could have taken the different view in the matter accordingly.

As a result, this writ application succeeds. The decision of the Board as contained in Annexure-14 to the interlocutory application, so far it concerns the petitioner, is quashed and set aside.

However, the matter is remitted back to the Board to take a decision in accordance with law and also considering the observations and findings recorded in the present writ application.

It is expected that such decision would be taken by the Board in its next meeting after receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

