

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 434 of 2018

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

Rajo Sharma, Son of Late Shankar Mistri, Resident of Village-
Dhusmuri Bishanpur, P.S. Khagaria, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Patna, Bihar.
2. The Chief Secretary Bihar Patna.
3. The Inspector General (Prisoner), Bihar Patna.
4. The Jail Superintendent Central Jail Bhagalpur, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Advocate
For the Respondent/s: Mr. Lalit Kishore (AG)

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE PRAKASH

CHANDRA JAISWAL

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 05-02-2018

Heard learned counsel for the petitioner and the State.

Through this writ application, the petitioner seeks quashing of the decision of the State Remission Board dated 27.07.2017, as contained in Annexure-1, so far it concerns to the petitioner. The petitioner further seeks direction for his premature release on the ground that he has already completed more than 20 years of



sentence with remission and more than 14 years of actual incarceration.

From perusal of the order of the Sentence Remission Board it appears that the decision against the petitioner has been taken only on the ground that the opinion of the Presiding Officer is adverse. The opinion of the Presiding Officer has been quoted in column no. 8 which is extracted as under:-

“07.06.2017

In view of the nature of the guilt, the application of the life convict Rajo Sharma may not be accepted.”

In our view, both the authorities have not acted in accordance with law. The Presiding Officer should have understood that life sentence or death sentence extra is ordered with respect to a heinous crime committed by the accused persons that does not mean that his case would not qualify to be considered under the Short Sentencing Policy even after completion of substantial part of his sentence.

This issue is 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.]**.

The Division Bench has held that the desirability of guideline was merely indicated by the Apex Court and its decision reported



in (1975) 4 SCC 298 [Shri Mandir Sita Ramji vs Lt. Governor of Delhi & Others] but it does not mean that in absence of guideline laid by the High Court, the Additional Sessions Judge is precluded from applying his mind. He is a judicial officer trained for such eventuality and it was expected of him to apply himself to the law and the legal requirements. Such blanket stand in case of heinous crime in which the accused has been awarded sentence, cannot be accepted as ground for giving an opinion that for the said reason such accused would not be entitled for privilege under the Short Sentencing Policy.

That apart, even if it was done, the Sentence Remission Board was always at its discretion to take a different view of the matter on justifiable grounds notwithstanding favourable or unfavourable recommendations by the authorities.

In our considered opinion, the opinion of the Presiding Officer in the present facts and circumstances of the case could not be treated as a factor for denying premature release of the present petitioner.

In the result, this writ application succeeds. The decision of the Sentence Remission Board dated 27.07.2017, as contained in Annexure-1, so far it concerns to the petitioner, is quashed and set aside. The matter is remitted back to the Sentence Remission



Board to take fresh decision in accordance with law in its next meeting considering the law laid down by the Division Bench of this Court reported in **2017(2) PLJR 201 [Ravi Pratap Mishra Vs. The State of Bihar & Ors.]** and the decision of this Court dated 01.12.2017 rendered in **Cr.W.J.C. No. 2224 of 2017 [Ram Babu Singh vs. The State of Bihar & Ors.]**

(Dr. Ravi Ranjan, J)

(Prakash Chandra Jaiswal, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
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