

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No 2389 of 2018

Arising Out of PS. Case No.-76 Year-2000 Thana- SAHEBPUR KAMAL District- Begusarai

Murari Yadav, Son of Late Shankar Yadav, resident of Village Sahebpur
Kamal, Nautolia, P.S. Sahebpur Kamal District Begusarai (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat Building, Patna.
2. The Principal Secretary, Home Department, Govt. of Bihar Old Secretariat Building Patna.
3. The Inspector General of Prison, Govt. of Bihar, Old Secretariat, Building, Patna.
4. The Superintendent of Jail, Kendriya Kara, (Central Jail), Bhagalpur.
5. The Deputy Inspector General of Prison, Govt. of Bihar Old Secretariat, Building, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Bariar
For the Respondent/s : Mr. Lalit Kishore (A.G.)

CORAM: HONOURABLE DR JUSTICE RAVI RANJAN
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE DR JUSTICE RAVI RANJAN)

Date : 01-10-2018

Heard learned counsel for the parties.

2 Through this writ petition, the writ petitioner seeks direction of this Court to the respondents for his premature release under Short Sentence Policy of the State as he has already completed qualifying period of incarceration for such consideration.

3 Petitioner is serving life sentence in view of the judgment of conviction in Sahebpur Kamal Police Station Case No



76 of 2000. The Appellate Court has also affirmed the judgment. However, the death sentence was commuted to life sentence. A copy of the judgment has been appended as Annexure 2.

4 Petitioner's case was earlier considered by Annexure 1 by the Remission Board and rejected. A stand was taken that he would be covered under Clause iv (b) of the amended Rule 529 of the Bihar Jail Manual as amended by notification dated 10th of December, 2002 as it is contended at the time of hearing that the petitioner's conviction is under Section 34 of Indian Penal Code along with Section 302 of Indian Penal Code. He has compulsorily and mandatorily to be considered under such provision which will exclude him from considering for premature release.

5 However, we are not at all impressed by such type of submission but it is not an appropriate stage for considering the same because that would finally amount to deciding the issue. As the period of one year has already lapsed since the last decision was taken by the Remission Board and as per the amended provision, admittedly, his case can be reconsidered by the Remission Board but we are convinced after looking to the earlier decision (Annexure 1) of the Remission Board that the same has been rendered without considering the following part of the



judgment of the appellate Court while commuting the sentence from death to life which stands extracted as under:

“xxx Bearing in mind the aforesaid principle, when we proceed to consider the facts of the present case, we are of the opinion that the same does not come within the purview of rarest of the rare cases. True it is that two persons had been killed, but there is nothing on record to show that the appellants shall be menace to the society threatening its peaceful existence. There is also nothing on record to show that they shall be continuous threat to the society, if come out of incarceration. We do not find any reason to believe that they cannot be reformed and shall continue with criminal activities. xxx”

6 Accordingly, we would direct the Remission Board to reconsider the case of the writ petitioner after addressing all the aspects in accordance with law and also the aforesaid finding/observation made by the Division Bench of this Court.

7 This writ petition stands disposed of.

(Dr Ravi Ranjan, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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