

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2907 of 2017

Arising Out of PS. Case No.- Year- Thana- District- Muzaffarpur

=====

TULLU SINGH @ ASHUTHOSH SINGH @ ASHUTHOSH KUMAR SINGH, Son of Ram Lagan Singh, Resident of Village- Fatehabad, P.S.- Paroo, District- Muzaffarpur.

... .. 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, Khudi Ram Bose Central Jail, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
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 : 17-01-2018

Heard learned counsel for the petitioners and the State.

Through this writ application the petitioner seeks his premature release under Short Sentencing Policy of the State of Bihar.



It is stated in the writ petition that the petitioner is serving sentence for life on conviction in Sessions Trial No. 484 of 1998 / 205 of 1999 under Section 302/34 of the Indian Penal Code vide judgment of conviction and order of sentence dated 21.12.2000. It is claimed by the petitioner that he has already completed about 19 years of actual incarceration and 24 years with remission. Thus, it is urged that as per the Short Sentencing Policy prevailing at the time of his conviction, he should get benefit of premature release.

A counter affidavit has been filed on behalf of the State taking a stand that the petitioner's proposal with regard to petitioner was put up before the Bihar Sentence Remission Board and the Board in its meeting has given direction to obtain the opinion of the Presiding Officer concerned which would be evident from the decision of the Board dated 7.4.2017 appended as Annexure A to the counter affidavit. It is further stated in paragraph 10 of the counter affidavit that despite numerous letters requesting the Presiding Officer, i.e., Additional District and Sessions Judge, IV, Muzaffarpur were sent for requesting the opinion but the same is still awaited.

Having regards to the aforesaid facts and circumstances, this Court would direct the Presiding Officer, i.e., Additional District



and Sessions Judge, IV, Muzaffarpur to send its opinion as required under Section 432 of the Cr.P.C. forthwith i.e., without further delay and, on receipt of such opinion the matter would be again required to be placed before the Remission Board so that the case of the petitioner could be considered by the Board in accordance with law in its next meeting.

While doing so, the Board should also examine and consider the claim of the petitioner that a person who was convicted along with the petitioner in the same case, namely Kamlesh Kumar, had already been recommended for his premature release by the Board and in terms thereof he has already been released.

Before parting with the matter, since vide Annexure B series about 16 letters have already been written by the Superintendent, District Jail, Chapra to Presiding Officer, i.e., Additional District and Sessions Judge, IV, Muzaffarpur for sending his opinion under Section 432(2) of the Cr.P.C. but he has not responded till date, in such a situation, though this writ application stands disposed of, however, Presiding Officer, i.e., Additional District and Sessions Judge, IV, Muzaffarpur would be required to submit his explanation before this Court as to why he has refrained from doing his statutory duty. The explanation should reach this Court within a period of two weeks.



Put up this matter on 7.2.2018 under the heading “For Orders”.

(Dr. Ravi Ranjan, J)

(Prakash Chandra Jaiswal, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2018
Transmission Date	18.01.2018

