

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.126 of 2019

Arising Out of PS. Case No.- Year- Thana- District- West Champaran

ABDULLAH ANSARI (Male), aged about 75 years, son of Sadiue Ansari,
Resident of Village- Deuli, P.S. Narkatiyaganj, District- West Champaran at
Bettiah.

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

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-01-2019

The petitioner was convicted and sentenced under the order of the Sessions Judge, West Champaran, Bettiah dated 23rd December, 1987 in Sessions Trial No. 193 of 1983, under Sections 302/34 and 201 of Indian Penal Code. The sentence awarded was life imprisonment.

According to the admission in Paragraph-13 of the petition, the petitioner states that he has completed more than 12 years of incarceration and, therefore, applying the policy as



adopted and incorporated in Rule 529 of the Bihar Jail Manual vide Notification dated 10th December, 2002, the case of the petitioner deserves to be considered for remission, as a convicted prisoner, undergoing life sentence on attaining the age of 65 years and having served at least seven years, is entitled for the same.

Learned counsel for the State of Bihar, however, opposes this petition and contends that the policy of 10th December, 2002 would not be applicable in the present case as the date of conviction is of the year 1987 when there was a different policy applicable promulgated on 19th February, 1984. According to the same, the minimum years to be undergone for the purpose of consideration of remission is 14 years which the petitioner has not yet completed. This is evident from Clause 2-*Ka* of the said notification.

The law in this regard has been considered by the Hon'ble Apex Court in the case of *State of Haryana Versus Jagdish* reported in *2010 (4) SCC 216* and other subsequent cases.

Consequently, the policy as applicable in the case of the petitioner of the year 1984 does not entitle him to move for remission unless he completes 14 years.



Consequently, no case is made out for issuance of any mandamus to the respondents at this stage, without prejudice to the rights of the petitioner to apply as and when the law extends benefit to him or in grave or peculiar circumstances.

Consigned to records subject to above.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	AFR
CAV DATE	
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