

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.42 of 2018

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

Butan Paswan S/o Late Sukhdeo Paswan, R/o Village- Sultanpur, P.S.- Desari,
District- Vaishali at Hajipur.

... .. 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 , Shahid 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 : 29-01-2019

The petitioner was convicted for an offence under Section 396 I.P.C. under the judgement of the trial court that was passed in the year 2004. The petitioner contends that the Remission Board has exercised its discretion mechanically, without taking into account similar cases which should also have been dealt with by the Remission Board. Further, reliance has been placed on the judgement in C.W.J.C. No. 1245 of 2016 decided on



15th of December, 2016 to contend that such concessions have been awarded by this Court in similar matters. Learned counsel contends that keeping in view the nature of the offence and the fact that the petitioner is under custody as an under-trial from 1986 onwards itself, he has already completed more than 14 years of incarceration and, therefore, he deserved a consideration for remission in his sentence.

We have considered the submissions raised and the decision in the case of Sheikh Harun decided on 25th of July, 2017 in C.W.J.C. No.1149 of 2017, this Court found that in that case it was an offence of murder of the wife of the convict. However, it was not found to be a commission of an offence in an organized manner and, ultimately, quashed the order of the Remission Board for consideration afresh in the light of the observations made therein.

On facts, the case of the petitioner does not stand on a similar footing inasmuch as the petitioner has been convicted in a case of armed dacoity and, consequently, no comparison can be drawn between the facts of the case of Sheikh Harun (supra) and that of the petitioner.

The nature of the offence in the present case, therefore, squarely falls within the parameters of the policy decision as



notified on 10th of December, 2002 whereunder the question of remission cannot be considered keeping in view the heinous nature of the offence. The said notification refers to ineligibility for premature release for certain category of convicts and the same is gainfully reproduced hereinunder for ready reference:-

“Home(Special) Department

NOTIFICATION

The 10th December, 2002

(iv) Ineligibility for premature release

The following category of convicted prisoners undergoing life sentence may not be considered eligible for premature release-

(a) Prisoners convicted of the heinous offences such as rape, **dacoity**, terrorist crimes etc.

(b) Prisoners who have been convicted for organized murders in a premeditated manner and in an organized manner.

(c) Professional murders who have been found guilty of murder by hiring.

(d) Convicted prisoners, who commit murder while involving in smuggling operations or who are guilty of murder of public servants on duty.”

In the aforesaid background, there is no case made out at present for a reconsideration or judicial review of the order passed by the Remission Board which appears to have taken a decision on the basis of material on record.



It will be open to the Remission Board to consider any request for review of the said decision which is impugned herein in future.

The petition is accordingly consigned to records with the aforesaid observations.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Nasimul/K.C.Jha

AFR/NAFR	
CAV DATE	N/A
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