

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.826 of 2019

Arising Out of PS. Case No.-53 Year-1999 Thana- KHANPURA District- Samastipur

Dana Devi Wife of Ganesh Sah Resident of Village- Bawanghat, P.S.
Khanpur, District- Samastipur.

... .. 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, Govt. of Bihar Patna.
3. The Joint Secretary-cum-Director (Administration), Home Deptt. (Prison), Bihar, Patna. Bihar
4. The Secretary, Law Department, Government of Bihar, Patna. Bihar
5. The Additional Director General of Police, Criminal Investigation Department, Bihar, Patna. Bihar
6. The Inspector General, Jail and Reforms Services, Bihar, Patna. Bihar
7. The Assistant Inspector General, jail and Reform Services, Bihar, Patna. Bihar
8. The Jail Superintendent, Khudi Ram Bose Central Jail, Muzaffarpur. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Singh, Adv.
For the Respondent/s : Mr.Lalit Kishore (AG)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-08-2019

We have heard learned counsel for the parties and
perused the affidavit filed on behalf of the State.

In paragraph 8 of the affidavit filed on behalf of the
State, it has been categorically averred as follows:



“That the petitioner has completed only 12 years 08 months and 18 days and has earned a remission of 03 years 08 months and 07 days and the total custody with remission is 16 years 04 months and 25 days as on 04.07.2019 which is very much less than the mandatory period prescribed for the consideration by the Remission Board.”

This fact remains undisputed.

Learned counsel for the petitioner, relying on the judgement in the case of State of Haryana & Ors. Vs. Jagdish, reported in (2010) 4 SCC 216, paragraph 43, contends that the remission policy has to be applied uniformly and that the petitioner cannot be treated differently.

The issue is not of giving a different treatment, but rather applying the law as enunciated by the Apex Court. The issue as to what would be the minimum period of sentence undergone for the purpose of considering the case of remission is no longer *res integra* and is concluded for the time being by a Constitution Bench decision in the case of **Union Of India vs V. Sriharan @ Murugan & Ors** reported in (2016) 7 SCC 1. The issue also stands concluded by a Division Bench of this Court in the case of **Tarachand Kapari Vs. The State of Bihar & Ors., C.W.J.C. No.1042 of 2015**, decided on 19th of January, 2016.



Applying the principles laid down therein, there is no indefeasible right in the petitioner to seek premature release as the petitioner has completed only 12 years, 8 months and 18 days. This calculation having been done and also reflected along with the figures of study with remission as 16 years, 04 months and 25 days does not entitle the petitioner for premature release at this stage.

Learned counsel contends that the policy as applicable in the cases of females ought to be taken into account. The law as laid down by the Apex Court does not draw any such distinction on the basis of any gender and, consequently, we are unable to accept the contention raised on behalf of the petitioner. The petition lacks merit and is, accordingly, rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	
Transmission Date	

