

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1318 of 2019

Arising out of PS. Case No.-519 Year-1987 Thana- BIHARSHARIF District- Nalanda

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RAJ BALLAM YADAV @ RAJBALLABH PRASAD @ BIJLI YADAV,
Male, aged about 82 years, Son of Prasadi Yadav Resident of Village - Lal
Bagh, Post Office - Dumrawan, P.S. - Dip Nagar, District - Nalanda.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH ITS CHIEF SECRETARY,
GOVERNMENT OF BIHAR, PATNA. Bihar
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Inspector General of Police Jail, Government of Bihar, Patna.
5. The Deputy Inspector General of Jail and Reforms Services, Bihar, Patna.
6. The District Magistrate, Nalanda District.
7. The Superintendent of Police, Nalanda District.
8. The Superintendent Mandal Kara, Bihar Sharif.
9. The Human Rights Commission, Bihar through its Secretary, 9, Bailey
Road, Patna - 800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Uma Shankar Sharma, Advocate
For the Respondent/s : Mr. Saroj Kumar Sharma, A.C. to AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 12-09-2019

Heard learned counsel for the parties.

The defect(s) pointed out by the Stamp Reporter is
hereby ignored.

The petitioner seeks a direction to the respondent



authorities to recommend his case for remission before the Sentence Remission Board, which apparently has been refused on the ground of the petitioner not having completed the requisite number of years for his case to be recommended before the Sentence Remission Board.

It appears from the records that the petitioner was convicted by the trial court and which conviction was upheld/sustained by a Division Bench of this Court. The matter travelled up to Supreme Court, where also the petitioner lost. The Review Petition filed by the accused-petitioner was also rejected.

It has been submitted on behalf of the petitioner that he is 82 years of age; has remained in jail for several number of years and is also suffering from serious ailments entitling him to be considered for remission of his sentence. The Superintendent of Bihar Sharif Jail has intimated to the DIG, Prison & Correctional Services that the case of the petitioner cannot be recommended for remission because of the impediment of Section 433A of the Code of Criminal Procedure read with Rule 481 of the Bihar Police Manual.

Section 433A of the Code of Criminal Procedure reads as follows:-



“433-A. Restriction on powers of remission or commutation in certain cases.-

Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishment provided by law, or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.”

The aforesaid provision of the Code of Criminal Procedure read with Rule 481 of the Bihar Police Manual mandates that remission can be given to an accused if he has served for 14 years in jail in case he has been sentenced Life Imprisonment and in case a person has been sentenced to death but his death sentence has been reduced to Life Imprisonment, after the accused remains in jail for 20 years.

The jail records reveal that the petitioner has remained in jail only for 8 years, 11 months and 18 days and, therefore, the authority concerned has expressed his inability in recommending the case of the petitioner for remission of his sentence.



We do not find any anomaly in the aforesaid decision of the respondent authority in not recommending the case of the petitioner.

There is no merit in this petition. The petition is accordingly dismissed. Cost easy.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
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