

HIGH COURT OF CHHATTISGARH, BILASPUR

WPHC No. 1 of 2019

- Nanu Gaharwar Cast Satnami S/o Fattechand Satnami Aged About 22 Years R/o Village Rohra P. S. Bhatapara Tahsil And District Baloda Bazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Superintendent of Jail, Central Jail, Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For Petitioner
For Respondent-State

Shri B. K. Chakrabarty, Advocate
Shri Gagan Tiwari, Dy. GA

Hon'ble Acting Chief Justice Mr. Prashant Kumar Mishra

Hon'ble Justice Mr. Parth Prateem Sahu

Order On Board

29/03/2019

1. This habeas corpus petition has been filed for release of petitioner's brother Rajesh Satnami, as he has already completed more than 18 years of jail sentence for his conviction in Sessions Trial No.413/2000 on 06.12.2001 by the Special Judge (Atrocity), Raipur for an offence under Section 302 of IPC.
2. Annexure-R-2 filed with the return will demonstrate that the Jail Authorities had sought opinion from the Trial Judge as to whether the said Rajesh Satnami should be granted clemency for his

release from jail. However, the Trial Judge has accorded negative opinion, based on which the said Rajesh Satnami could not be released from Jail.

3. Since the said Rajesh Satnami's non release from jail is not on account of his illegal confinement, but has occasioned on account of a negative opinion rendered by the Trial Judge, unless the said order is quashed in a duly constituted writ petition, the petitioner cannot be allowed any relief in this petition in the nature of habeas corpus.
4. In view of the above, the petitioner's brother's continued incarceration in the Central Jail, Raipur being not in the nature of illegal confinement, this petition in the nature of habeas corpus is not maintainable. It is accordingly dismissed as not maintainable reserving liberty in favour of the petitioner to maintain appropriate proceedings seeking quashment of the order (Annexure-R-2 & R-3) and/or seeking a direction for release of his brother from the Central Jail, Raipur.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge