

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 401 of 2018

- Ashok Kumar S/o Palturam Dhankar, Aged About Presently 28 Years (Presently 45 Years), R/o Village-Salna, P.S. Vishrampuri, Tahsil Vishrampuri, District Kondagaon Chhattisgarh. Through His Brother Chintaram Dhankar S/o Palturam Dhankar Aged About 48 Years, R/o Village Salna, P.S. Vishrampuri, Tahsil Vishrampuri, District-Kondagaon, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Principal Secretary Department Of Home (Jail) Mantralaya, Raipur, District-Raipur, Chhattisgarh.
2. The Jail And Correctional Services Chhattisgarh, The Director General Prisoners, Jail Road Raipur, Chhattisgarh.
3. The Jail Superintendent Central Jail Jagdalpur, District-Bastar Chhattisgarh.
4. The Superintendent Of Police, District Kondagaon Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Rajesh Jain, Advocate
For Respondents/State	: Mr. Ghanshyam Patel, Govt. Advcoate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on board

29/07/2019

1. The petitioner, who is undergoing imprisonment for 17 years, has preferred this petition under Article 226 of Constitution of India for issuing direction (s) to the respondent authorities to grant benefit of remission to the petitioner and release him forthwith.

2. It is submitted by the learned counsel for the petitioner that by the judgment dated 30.11.2004 passed by the learned 1st Additional Sessions Judge, Bastar at Jagdalpur (CG) in ST No.151/02, the petitioner stands convicted for commission of offence under Section 302/34 of IPC and sentenced to undergo RI for life with fine of Rs.500/-. He further submits that the petitioner has completed continued detention of 21 years including remission earned and therefore he has become entitled for remission in sentence as per provisions of Section 432 of CrPC. and also as per provisions of Jail Manual. Therefore, it is prayed that appropriate order/direction be passed.
3. State counsel opposes the petition and the submissions made in this respect. It is submitted that looking to heinous crime of murder committed by the petitioner, the sentence already undergone by him cannot be treated as sufficient sentence entitling him to remission in sentence. Therefore, it is prayed that the petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Vide judgment dated 30.11.2004 passed by the Court below in S.T. No.151/2002, the petitioner has been convicted under Section 302/34 of IPC and sentenced to undergo RI for life with fine of Rs.500/-. The sentence imposed upon the petitioner is not specific on this point that he shall undergo life sentence till the

end of his life, therefore, under this circumstance, the petitioner has entitlement for remission or suspension, as may be available to him under the provisions of Jail Manual.

6. For the foregoing discussions and the conclusions drawn, this petition is disposed off with a direction to the respondent authorities to consider on grant of remission/suspension to the petitioner in accordance with Section 432 of Cr.P.C. and also as per provisions of Jail Manual on the basis of his entitlement and grant relief to the petitioner accordingly.
7. With the aforesaid directions, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge