

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.115 of 2020

Arising Out of PS. Case No.-152 Year-2000 Thana- OBRA District- Aurangabad

MD. ASLAM Son of Late Md. Khalil Resident of Village - Balar, P.S. -
Kasma, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Addl.Chief Sectry. Dept. of Home Bihar, Patna. Bihar
2. The Director General of police, Bihar, Patna. Bihar
3. The Inspector General, Prison, Bihar, Patna. Bihar
4. The Assistant Inspector General, Prison, Bihar, patna. Bihar
5. The Jail Superintendent, Special Central Jail, Bhagalpur. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar No.1
For the Respondent/s : Mr.Lalit Lishore (A.G)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 05-02-2020 Heard learned counsel for the petitioner and learned
counsel for the respondents.

Petitioner has prayed for following reliefs:-

i) To issue writ in the nature of certiorary or any other appropriate writ/writs, order/orders, direction/directions quashing the resolution taken in the meeting dated 28.11.2018 of State Sentence remission Board, rejecting the case of the petitioner for grant of remission and forthwith release on the ground that as per para (IV) (ka) of notification dated 10.12.2002 contained in notification No.3106, Home (Special) Department Bihar the person who involved in Rape, Dacoity, Terroristn crime is not getting



remission in sentence.

ii) To issue writ in the nature of Habeas Corpus or any other appropriate writ/writs, order/orders, direction/directions commanding the respondents to release the petitioner forthwith from Special Central Jail Bhagalpur, where he has been detained unauthorisely on the sentence awarded to him is S.T.No.120 of 2001/24 of 2002/151 of 2004 arising out of Obra P.S.Case No.152 of 2000 giving benefits of privileges confirmed on the authorities under the provision of the code of criminal proceeding, Jail Manuals and resolution of State government and the policy decision of State Government as contend on letter No.550 dated 21.01.1994.

c) To issue writ in the nature of mandamus or any other appropriate writ/writs, order/orders, direction/directions commanding the respondents to consider the case of the petitioner for his forthwith release in consonance with the provisions referred above.

The present petition in the nature of Habeas Corpus, challenging the order of rejection of prayer for remission by the appropriate authority is not maintainable for petitioner's detention is through an order passed by a Court having competent jurisdiction in relation to a crime, for which, he stands convicted under the provisions of the Indian Penal Code.

As such, learned counsel for the petitioner is permitted to withdraw the present petition reserving liberty to file afresh on the same and subsequent cause of action challenging the order of rejection, of his prayer, for grant of



remission in accordance with law.

Accordingly, this application is dismissed as
withdrawn.

(Sanjay Karol, CJ)

(Mohit Kumar Shah, J)

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