

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.29 of 2020

Arising Out of PS. Case No.-4 Year-2002 Thana- NAUHATTA District- Rohtas

Rupdev Yadav @ Rupu, Son of Subhash Yadav, Resident of Village - Babhan Talab, P.S. and District- Rohtas. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government Of Bihar, Patna
2. The Union of India through Home Secretary, New Delhi. India
3. The Bihar State Sentence Remission Board through its Chairman cum Principal Secretary, Department of Home, Government of Bihar, Patna.
4. The Joint Secretary Cum Director (Administration), Home Department (Prison), Bihar, Patna. Bihar
5. The Secretary, Law Department , Government of Bihar, Patna. Bihar
6. The Additional Director General of Police, Criminal Investigation Department, Bihar, Patna. Bihar
7. The Inspector General, Jail and Reforms Service, Bihar, Patna Cum Secretary, Bihar State Sentence Remission Board, Bihar.
8. The Assistant Inspector General, Jail and Reforms Services, Bihar, Patna. Bihar
9. The Jail Superintendent , Sasaram Jail, Sasaram, Rohtas. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Kanhaiya Pandey, Advocate
		Mr. Rakesh Narain Singh, Advocate
For UOI	:	Mr. Ramakant Sharma, Sr. Advocate
For the State	:	Mr.Prabhu Narain Sharma, AC to AG

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 14-01-2020 Counter Affidavit on behalf of respondent Nos.

1,3,4,7,8 & 9 filed today is taken on record.

We do not find any merit in the present petition which is accordingly dismissed for the reasons that (a) there cannot be a petition for habeas corpus in a case of detention pursuant to



the judgment passed in a criminal matter by a Court having competent jurisdiction; and (b) in any event, when an application for remission stands rejected, then petitioner has to take recourse to such remedies, as are otherwise available in accordance with law.

Learned counsel for the petitioner argued the issue of maintainability of the present petition, placing reliance upon the decisions rendered by the Co-ordinate Benches of this Court in **Cr.WJC No. 1180 of 2016 titled as Most Sudama Devi Vs. The State of Bihar & Ors.**, decided on 16.12.2016 and in **Cr.WJC No. 991 of 2010 titled as Sahebi Khatoon @ Sahebi Vs. State of Bihar & Ors.** decided on 23.09.2010.

In our considered view, the issue of maintainability was not considered in the said decisions by the respective Co-ordinate Benches. As such the issue of maintainability is left open.

The writ petition stands dismissed with the aforesaid observation.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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