

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.335 of 2021

Arising Out of PS. Case No.-27 Year-2004 Thana- SANHAULA District- Bhagalpur

Md. Khudbuddin @ Md. Kutubuddin Ansari (male), aged about 36 years, Son of Late Rahman Ansari Resident of Village- Lashkari, P.S.- Sanokhar, District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The State Sentence Remission Board through the Principal Secretary, Home Deptt. Govt. of Bihar, Patna.
3. The Joint Secretary-Cum-Director (Administration), Home Deptt. (Prison), Bihar, Patna.
4. The Secretary, Law Deptt., Govt. of Bihar, Patna.
5. The Additional Director General of Police, Criminal Investigation Deptt., Bihar, Patna.
6. The Inspector General, Jail and Reforms Services, Bihar, Patna.
7. The Assistant Inspector General, Jail and Reforms Services, Bihar, Patna.
8. The Jail Superintendent, Special Central Jail, Bhagalpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Singh
For the Respondent/s	:	Mr.N.H.Khan (S.C.1)
		Md.Irshad AC to SC-1

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 05-03-2021 Heard learned counsel for the petitioner and learned State counsel.

2. The present criminal writ petition has been filed for quashing the decision of the State Remission Board dated 05.03.2020 (Annexure-P6), whereby and whereunder the State Remission Board has been pleased to reject the proposal of the petitioner for his premature release on the ground that under



clause (iv) (kha) of Notification No. 3106 dated 10.12.2002, the petitioner is not eligible for grant of premature release, as there is no favourable report of Presiding Officer of the convicting court.

3. Short facts of the case are that petitioner was convicted, vide judgment dated 30.06.2006, and sentenced on 11.07.2006 by learned Additional Sessions Judge, F.T.C.-III, Bhagalpur in Sessions Case No. 811 of 2005/Trial No. 95 of 2005 {arising out of Sanhoula (Sanokhar) P.S. Case No. 27 of 2004}.

4. It is submitted on behalf of petitioner that petitioner has already undergone physical incarceration of 14 years, 9 months & 21 days and 20 years, 3 months & 20 days with remission. It is further submitted that the impugned order is in the teeth of a Division Bench judgment of this Court dated 20.06.2017 passed in Cr.W.J.C. No. 748 of 2017 and the case of the petitioner cannot be considered in the light of Notification No. 3106 dated 10.12.2002, in view of the fact that same has come into effect on 02.07.2007 and the petitioner has been convicted on 30.06.2006 and sentenced on 11.07.2006. The case of the petitioner will be governed by letter dated 25.05.1985, by which, all categories of life imprisonment convicts were eligible



for premature release by the jail superintendent himself after completion of 14 years of actual imprisonment and 20 years with remission. It is further submitted that Hon'ble Division Bench has found that though the ordinance Notification dated 10.12.2002 was issued, but the same came to be implemented after 02.07.2007 and during the period, all categories of life imprisonment convicts were eligible for premature release by the jail superintendent himself after completion of 14 years of actual imprisonment and 20 years with remission in jail, as provided in the letter dated 25.05.1985. It is further submitted that the case of the petitioner is squarely covered by a recent decision of this Court dated 19.02.2021 passed in Cr.W.J.C. No. 1615 of 2019.

5. However, learned State counsel though has opposed the prayer made on behalf of petitioner, but at the same time, submitted that in view of the judgment of Division Bench of this Court dated 20.06.2017 passed in Cr.W.J.C. No. 748 of 2017, the matter may be referred to the State Remission Board to take appropriate step.

6. Having heard the submission of learned counsel for the parties, this Court is, *prima facie*, satisfied with the submission of learned counsel for the petitioner and is in



agreement that the case of the petitioner is covered by a decision of Division Bench of this Court dated 20.06.2017 passed in Cr.W.J.C. No. 748 of 2017. In this case, petitioner has been convicted prior to 02.07.2007 and thus, his case is squarely covered by order dated 20.06.2017 passed in Cr.W.J.C. No. 748 of 2017 by a Division Bench of this Court.

7. In the aforesaid facts and circumstances, the impugned order dated 05.03.2020 passed by State Remission Board (Annexure P6) is hereby quashed and set aside.

8. The criminal writ petition is allowed with a direction to the State Remission Board to consider the case of the petitioner afresh in the light of various judgments of this Court referred hereinabove and take an appropriate view of the matter within a period of six weeks from the date of receipt/production of a copy of this order.

(Prabhat Kumar Singh, J.)

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