

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1135 of 2021

Arising Out of PS. Case No.-16 Year-1974 Thana- DIGHALBANK District- Kishanganj

SHANTI DEVI Wife of - Surang Lal Yadav @ Surajlal Yadav Resident of
Village- Singhimari, P.S.- Dighal Bank, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary-cum-Home Secretary, Govt. of Bihar, Patna.
2. The Inspector General of Prison and Reform Services, Govt. of Bihar, Patna.
3. The State Sentence Remission Board, through I.G. Prison, Bihar, Patna.
4. The Jail Superintendent, Shahid Jubba Shahni Central Jail, Bhagalpur, Bihar.
5. The Jail Superintendent, Central Jail, Purnea, Bihar, the Principal Secretary, Food and Civil Supply Govt. of Bihar.
6. The Superintendent of Police, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Pathak, Advocate
For the Respondent/s : Mr. Prabhu Narain Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 22-02-2022 Herd learned counsel for the petitioner and learned
counsel for the State.

The petitioner has preferred this application for directing the respondents that the proposal of remission of her 95 year old husband be considered by the Bihar State Sentence Remission Board, Patna ('the Remission Board' in short) at the earliest and for other reliefs.

The case of the petitioner in brief is that her husband was convicted by judgment dated 30.11.1993 passed in



Sessions Trial no. 28 of 1978 and sentence to RI for life under sections 302/149 of the Indian Penal Code besides being sentenced under other sections, all the sentences having been directed to run concurrently. The appeal preferred by the husband of the petitioner was dismissed by the Division Bench of Patna High Court on 23.11.2006 and by order dated 26.9.2014 the appeal of the petitioner's husband was dismissed by the Hon'ble Supreme Court.

It is submitted by learned counsel for the petitioner that the husband of the petitioner has remained in jail continuously since 28.4.2007 and as on date he has completed more than 14 years 9 months in custody. Referring to the proposal sent by the Jail Superintendent, it is submitted that the same in col. nos. 10 and 11 refers to the memo no. 3106 dated 10.12.2006 which brought about amendment in sub Rules 3(a) & (d) of Rule 529 of the Bihar Jail Manual. As per the said amendment, the convict had to satisfy his having served actual sentence of 14 years or 7 years or with remission, provided he has completed the age of 65 years. It is the case of the petitioner that so far as the husband of the petitioner is concerned, he has completed both the conditions, having remained in custody for 14 years 9 months of actual custody and he is 95 years old. Thus



it is submitted that the Remission Board be directed to consider the case of the husband of the petitioner within the shortest possible time and to release him from custody.

It is submitted by learned counsel for the State that a counter affidavit has been filed bringing on record a copy of the report (PDR) of the husband of the petitioner according to which although the petitioner has remained in custody for 14 years 7 months 2 days, however, for remission he has not completed the required 20 years in custody but has remained in custody for 19 years 2 months 14 days. As soon as the husband of the petitioner completes 20 years of custody with remission, the proposal will be sent and considered by the Remission Board. Learned counsel for the State further relies on the judgment in the case of State of Haryana vs. Jagdish (2010)4 SCC 216 more particularly paragraph no. 53 thereof. The case of the husband of the petitioner not having been considered yet by the Remission Board, the Court is not going into the merits of the case of the parties.

This application is disposed of directing the State Remission Board (respondent no. 3) to consider the case of the petitioner within a period of three months from the date of receipt of a copy of this order.



Let the decision of the Remission Board be
communicated to the petitioner within the aforesaid period.

The application stands disposed of.

(Partha Sarthy, J)

Spd/-

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