

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMP No.7 of 2020**

***Kiran Kumar Bedi***

....

***Petitioner***

*versus-*

***State of Odisha and others***

....

***Opposite Parties***

**CORAM: JUSTICE S. PUJAHARI**

**ORDER**

**25.08.2022**

**Order**  
**No.**

14.

1. This matter is taken up through hybrid mode.

2. This petition has been filed by the Petitioner with a prayer to quash the decision of the State Sentencing Review Board contained at Annexure-1 with a direction to the State Sentencing Review Board to reconsider his case for premature release.

3. Heard Mr. S. Panda, learned counsel appearing for the Petitioner and Mr. Prem Kumar Pattnaik, learned Additional Standing Counsel appearing for the State-Opposite Parties.

4. Petitioner in this case has challenged the decision of the State Sentencing Review Board

wherein his prayer for pre-mature release has not been considered, though he has followed all the criteria for his pre-mature release and having a good conduct and a report of the jail authority in his favour.

5. As it appears, Petitioner's case was taken up vide the impugned order and his prayer for premature release was refused citing the reasons that he has been involved in multiple murders, and his death sentence has been commuted to life imprisonment.

6. Learned counsel for the Petitioner would submit that on a wrong premise the prayer of the Petitioner for his pre-mature release has been refused, inasmuch as the Petitioner has never been awarded death sentence and that involvement of a person in multiple murder case is not a legitimate ground to refuse his prayer for premature release. Such a decision is also contrary to the counter affidavit wherein it is stated that the Petitioner's case shall be considered after completion of twenty years.

It is further submitted by the learned counsel that although in the meanwhile the petitioner has already undergone twenty-one years, still his case has not been considered.

7. Learned counsel appearing for the Opposite Parties, however, has vehemently defended the order of the State Sentencing Review Board.

8. Needless to say that it is no more res-integra that a decision of the State Sentencing Review Board is subject to judicially review.

9. As it appears, the State Government has formulated guidelines, which are in the nature of a rule flowing from Section 433-A of Cr.P.C. indicating the norms to be followed by the State Sentencing Review Board in considering the cases for commutation of sentence. No doubt, it is specifically provided that if a person is involved in a multiple murder case, after twenty years of his incarceration, his case for entitlement to be released on pre-mature

shall be considered. There is no prohibition for release of a person for pre-mature release, even if he is involved in a multiple murder case. Section 433-A of Cr.P.C. also does not contemplate that a person involved in a multiple murder case cannot be allowed premature release. For a ready reference, the said Section is reproduced here below:-

“433A. Restriction on powers of remission or Commutation in certain cases. Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.”

10. There is no restriction under the aforesaid Codal provision for considering the case of the petitioner notwithstanding, the guidelines issued by the State Government also do not prohibit the Board for considering the case of the Petitioner he has served twenty-one years, provided the other criteria for pre-mature release has also been fulfilled as per the guidelines.

11. The other ground for rejection of the case of the petitioner was that his death sentence has been commuted to life imprisonment. The same also appears to be fallacious, inasmuch as Section 433-A of Cr.P.C. gives power to the executive only to commute the sentence, and not to the Court. That apart, even if death sentence is awarded by the Sessions Judge in a case, the same does not become final, only the High Court confirms the same or modifies the same to life imprisonment. Be that as it may, no death sentence having been awarded to the present petitioner, the ground taken by the State Sentencing Review Board that the death sentence has been commuted to life imprisonment is found to be erroneous.

12. However, in the meanwhile, the petitioner having already served imprisonment for more than twenty-one years and the other criteria having been reportedly fulfilled by him, the Court hereby directs the State Sentencing Review Board to consider the

case of the petitioner afresh in its next meeting or within three months hence by convening a special meeting and obtaining the requisite reports from the concerned Authorities. Needless to mention that the case of the petitioner shall be dealt with in the light of the observations made hereinbefore.

13. It is clarified that the aforesaid direction shall not stand in the way of the Authority concerned to consider the prayer of the petitioner for grant of parole which is stated to be pending for consideration.

14. With the direction and observation as above, the CRLMP stands disposed of.

15. Urgent certified copy of this order be granted on proper application.

**(S. Pujahari)**  
**Judge**