

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.155 of 2023

Arising Out of PS. Case No.-71 Year-2005 Thana- MANSAHI District- Katihar

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Ganesh Singh, Son of Late Sitaram Singh R/v- Badi Bathnaha, P.S.- Mansahi,
District- Katihar, presently at Village- Ragapur, Kajra, P.S.- Mansahi, District-
Katihar. Petitioner

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Home Department, Bihar, Patna
3. The Inspector General (Police), Bihar, Patna
4. The Chairman, Bihar Remission Board, Patna
5. The Superintendent of Police, Katihar
6. The Jail Superintendent, Jubba Sahni, Central Jail, Bhagalpur
7. The Probation Officer, Home (Prison and Rehabilitation), District Probation
Office, Katihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Amish Kumar, AC to AG

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 30-10-2023 Heard Mr. Sanjay Kumar, learned counsel for the

petitioner and Mr. Amish Kumar, learned AC to AG for the

State.

2. The proposal for premature release of the petitioner
has been rejected by the State Sentence Remission Board
(hereinafter referred to as the 'Remission Board') on the ground
that the Hon'ble Division Bench while passing the order dated
29.09.2008 in Cr. Appeal (DB) No. 1187 of 2007 has clearly
directed that the petitioner shall not be entitled for release before
completion of 20 years of actual imprisonment.



3. Learned counsel for the petitioner submits that the Hon'ble Division Bench never said that the case of the petitioner would not be eligible for consideration of completion of 14 years of actual incarceration and 20 years with remission. According to him, in this case, the petitioner has completed about 18 years of actual imprisonment and more than 20 years with remission, therefore, he is entitled for consideration.

4. Learned counsel for the State has opposed this application. It is submitted that in view of the judgment of the Hon'ble Supreme Court in the case of **Swamy Shraddananda (2) versus the State of Karnataka** reported in (2008) 13 SCC 767 the Hon'ble Supreme Court has instead of confirming the death sentence awarded to the petitioner by the learned trial court decided to award a sentence of 20 years of imprisonment and in the judgment, the Hon'ble Division Bench has clearly directed that the petitioner shall not be released till he completes 20 years of actual imprisonment. It is, therefore, submitted that the Remission Board has not committed any error in rejecting the proposal for premature release of the petitioner at this stage.

5. Having heard learned counsel for the petitioner and learned AC to AG for the State as also on perusal of the judgment of the Hon'ble Division Bench of this Court rendered



on 29.09.2008 in Cr. Appeal (DB) No. 1187 of 2007, this Court is of the considered opinion that the Remission Board has not committed any error in refusing to consider the proposal for premature release of the petitioner at this stage. The Hon'ble Division Bench has clearly directed that this petitioner shall not be released before completion of 20 years of actual imprisonment, therefore, the right to be considered for premature release in terms of the statutory scheme under the code of criminal procedure would not be available to the petitioner at this stage.

6. This writ application has, thus, no merit. It is dismissed at this stage.

(Rajeev Ranjan Prasad, J)

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