

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 438 of 2023

Arising Out of PS. Case No.-131 Year-2004 Thana- SIWAN MUFFASIL District- Siwan

1. Arshad Ali Son of Aslam Ali @ Sheikh Aslam @ Aslam Mian R/o Village - Pratappur, Siwan, Front of Masjid, P.S.- Hussaingunj, District - Siwan, Bihar.
2. Sayra Khatoon Wife of Aslam Ali @ Sheikh Aslam @ Aslam Mian R/o Village - Pratappur, Siwan, P.S.- Hussaingunj, District - Siwan, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Govt. of Bihar, Patna
2. The Director General of Police, Govt. of Bihar, Patna
3. The Superintendent of Police, Siwan
4. The S.H.O. Siwan Mufassil Police Station
5. The Inspector General of Prisons Govt. of Bihar, Patna
6. The A.I.G. (Prison) Govt. of Bihar, Patna
7. The Jail Superintendent, Divisional Jail at Siwan, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vishwajeet Kumar Mishra, Adv.
For the Respondent/s	:	Mr. Sheo Shankar Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 13-04-2023

Learned counsel for the petitioners and learned
counsel for the State present.

The present criminal writ application has been filed
for directing the State of Bihar and its authorities who are
respondent nos. 1 to 7 to grant a temporary release on “parole”/
“furlough” of 60 days to the father of the petitioner no. 1 who is
in jail after being convicted and sentenced for life by a judgment

and order dated 09.12.2015 and 11.12.2015 respectively for the offence under Sections 323 and 364A of the I.P.C. in Sessions Trial No. 158 of 2010 arising out of Siwan Muffasil P.S. Case No. 131 of 2004.

Counsel for the petitioners submit that the conviction order has been upheld by the Hon'ble High Court and subsequently by Hon'ble Apex Court and it acquires finality. Counsel submits that he is not seeking anything on the merit of the case rather he has filed a criminal writ application with a very limited relief that under Bihar Prisoners (Parole) Rule, 1973, a right has been granted to the convicted person that he may represent for temporary release by way of filing an application under Form-I (as per Rule 4, before the Jail Superintendent in two copies).

Counsel for the petitioners submit that the Jail Superintendent, Division Jail at Siwan is not accepting their forms.

Counsel for the State seeks time to file counter affidavit in this case.

This Court is of the view that there is no need of filing any counter affidavit because the statute is very clear and under Rule-IV of Bihar Prisoners (Parole) Rule, 1973, a

convicted person shall file Form-I in two copies for temporary release on which the Parole Board shall consider in accordance with law.

In this background, this criminal writ application is **allowed.**

The respondent Jail Superintendent, Division Jail at Siwan is directed to accept Form-I of the petitioners and do the needful in accordance with law.

(Dr. Anshuman, J.)

sadique/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	