

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.885 of 2022**

Arising Out of PS. Case No.-54 Year-1997 Thana- SIWAN CITY District- Siwan

RUSTAM KHAN Son of Late Annul Haque Khan Resident of village -  
Machkana, P.S. Hussainganj, District - Siwan.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government 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 Department, Govt. of Bihar, Patna.
5. The Additional Director General of Police, Criminal Investigation Department, 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 , Divisional jail Siwan. Bihar.

... .. Respondents

**Appearance :**

|                      |   |                              |
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| For the Petitioner/s | : | Mr.Ratnakar Pandey, Advocate |
| For the Respondent/s | : | Mr.P.K.Shahi, AG             |
|                      |   | Mr.P.N.Sharma, AC to AG      |

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

10    07-04-2023                      Heard learned counsel for the petitioner and Mr. P. K. Shahi, learned A.G. assisted by Mr. P.N. Sharma, learned AC to AG for the State.

Petitioner in the present case is seeking the reliefs:-

“(I) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent no. 8 to send the proposal along with relevant reports of the prescribed Authorities as required under the law to the State Remission Board for grant of pre-



mature release of the petitioner in connection with Sessions Trial No. 948 of 2001 arising out of Siwan Town P.S. Case No. 54 of 1997, R.C. No. 2(s) 97 (CBI) in which the petitioner was convicted imprisonment for life under Section 302/149, 307/49, 120(B) of the Indian Penal Code and Section 27 of the Arms Act vide judgment and order dated 09.11.2012 passed by the learned Additional Sessions Judge-14, Patna interalia on the ground that the petitioner was behind the bars since 13.11.2001 and he has already completed more than 19 years of his physical incarceration.

(II) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent State Remission Board to consider the case of the petitioner for grant of pre-mature release and grant pre-mature release to the petitioner on the ground that the petitioner has already completed more than 19 years of his physical incarceration.

(III) For issuance of any other appropriate writ/ writs, order/orders direction/directions for which the writ petitioners would be entitled under the facts and circumstances of the case.”

Learned counsel for the petitioner submits that the petitioner has completed 14 years of actual custody and 20 years with remission, therefore, his case is fit to be considered by the Remission Board for pre-mature release.

A supplementary counter affidavit has been filed on



behalf of the respondent nos. 2, 3, 6 to 8. The counter affidavit admits that the petitioner has completed 17 years, 5 months and 23 days as actual custody and with remission, he has completed 20 years 3 months and 20 days as on 31.12.2022. In Paragraph '7' it is stated that for putting up the proposal of the petitioner before the Remission Board, the Superintendent, Central Jail, Motihari has requested the Presiding Officer of the Convicting Court, S.P. and Probation Officer, Siwan to provide their opinion/ consent regarding the pre-mature release of the petitioner but the same has yet not been received.

In the given circumstance, this Court directs the Inspector General, Jail and Reforms Services, Bihar, Patna to bring this order to the notice of all concerned authority and call upon them to submit their respective reports within a period of one month from today. Respondent no. 6 shall convene and hold the meeting of the Remission Board (respondent no. 2) within a period of two months from today. A reasoned decision with regard to the pre-mature release of the petitioner be taken within the aforesaid period.

This application disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

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