

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No 315 of 2024

Arising Out of PS. Case No.-11 Year-2008 Thana- DEHRI TOWN District- Rohtas

Arvind Yadav @ Vinod Yadav @ Vinod S/O Sri Rajvansh Yadav Mohalla-
Bhabua Ward No. 20, Gavayi, Ps. Bhabua, Dist. Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Deptt., Of Home, Govt. Of Bihar, Patna.
2. The Additional Chief Secretary, Deptt., of Home Govt. Of Bihar, Patna.
3. The Inspector General, Prison And Reform Services, Govt. of Bihar, Patna. Bihar, Patna.
4. The Additional Director General of Police, Crime and Investigation Deptt., Bihar, Patna.
5. The Director, Probation Services, Bihar, Patna.
6. The Superintendent of Police, Kaimur at Bhabua
7. The Superintendent, Divisional Jail, Bhabua (Kaimur)
8. The Bihar State Sentence Remission Board through the Addl. Chief Secretary, Dept. of Home, Bihar, Patna.
9. The Assistant Jail Inspector General (Area), Prison and Reforms Services, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Mishra
For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 17-09-2024

This writ petition has been preferred by the petitioner
seeking the following reliefs:

***“(i) For issuance of writ of
Certiorari to the Respondents authorities for
quashing of the decision/proceeding dated
01.08.2023 of the State Remission Board,
Bihar, Patna (arising out of Dehri PS Case
No 11 of 2008) which was communicated to
the petitioner through the Superintendent,
Divisional Jail, Bhabua (Kaimur) as***



contained with letter No KARA/05-07-11/2023/9153 dated 17.10.2023 by Assistant Jail Inspector General, Prison and Reforms Services, Department of Home (Jail), Bihar, Patna whereby the claim of the petitioner for Remission has been rejected and

(ii) Further for issuance of writ of Mandamus directing the respondents to release the petitioner on remission.

And/or

Pass such other order/orders as your Lordships may deem fit and proper in the facts and circumstances of the case.”

2 Facts of the case are that the petitioner has been convicted by the learned Additional Sessions Judge, FTC II, Rohtas at Sasaram vide its judgment dated 05.10.2010/08.10.2010 respectively in ST No 305 of 2008/331 of 2009 for the offence punishable under Sections 364A/34 of the IPC and sentenced him to undergo rigorous imprisonment for life. According to the counsel, the petitioner is in custody since 13.01.2008 and, as of now, he has completed more than 15 years actual incarceration and 20 years with remission. Being satisfied with the conduct and law abiding behaviour of the petitioner, Respondent No 7 sent a proposal before Respondent No 9 for premature release of the petitioner. A meeting of the State Remission Board was held on 01.08.2023 and the Board has rejected the proposal for premature release of the petitioner. Hence, this petition.



3 Learned counsel for the petitioner would submit that the State Remission Board rejected the proposal for premature release of the petitioner only on the ground that the case of the petitioner would be covered under the exception Clause (iv) (क) of the Remission Notification No 3106 dated 10.12.2002 of the Department of Home (Special), Government of Bihar, Patna and, accordingly, petitioner has not been found eligible for premature release. According to the counsel, the case of the conviction under Section 364A/34 of the IPC has not been especially mentioned in the said clause (iv) (क) of Remission Notification No 3106 dated 10.12.2002. Referring to the judgment passed by a coordinate Bench of this Court in the case of *Ajit Kumar Mishra -Versus- The State of Bihar through its Chief Secretary & Others* passed in *Cr W J C No 1195 of 2021*, since reported in *2023 (4) PLJR 782*, the learned counsel submits that the case of the petitioner is also squarely covered with the said judgment passed by the coordinate Bench of this Court.

4 I have heard learned counsel for the petitioner as well as the learned counsel for the Respondent-State. Also perused the judgment passed by the coordinate Bench of this Court, as referred to by the learned counsel for the petitioner.



5 In the case of *Ajit Kumar Mishra (supra)*, it has been observed by the coordinate Bench of this Court in paragraph 35 as under:

“35. This Court finds that on the date of consideration of the case of the petitioner on 23.12.2020, Rule 481 (i) (a) of the Manual of 2012 had already removed the difficulty, if any, in interpretation of the word ‘etc’ or ‘आदि’ which was occurring under clause (iv) (क) of the Remission Notification dated 10.12.2002. There was no scope for the Board to read a conviction under (sic-Section?) 364A IPC in the exception list either in clause (iv) (क) of the Remission Notification dated 10.12.2002 or under the substituted Manual of 2012. There were precedents also available before the Board showing that in other cases of convicts under Section 364A IPC, the Board had granted premature release. It is not the case of the Board that the conviction of this petitioner was for the offence under Section 364A IPC with pre-meditation of mind. The case of the petitioner has been rejected under clause (iv) (क) of the Remission Notification dated 10.12.2002 without appreciating that the ambiguity and vagueness in the word ‘etc’ present in the said clause had already been removed in the Manual of 2012.”

6 Perusal of the order passed by the State Remission Board whereby the proposal for premature release of the petitioner has been rejected clearly shows that while deciding the matter of the petitioner, the learned Board has not considered the observation made by this Court in the case of *Ajit Kumar Mishra (supra)*. Learned counsel for the Respondent-State also fairly



admitted the fact that the case of the petitioner is squarely covered with the judgment passed by the coordinate Bench of this Court in the case of *Ajit Kumar Mishra (supra)*.

7 Looking to the above submission made by the learned counsel for the parties, it would be appropriate to dispose of the petition directing the Remission Board to take a fresh decision in the matter of petitioner for his premature release in the light of judgment passed by the coordinate Bench of this Court in the case of *Ajit Kumar Mishra (supra)*.

8 Accordingly, the impugned order dated 01.08.2023 is set aside and this writ petition is disposed of.

9 The State Remission Board is directed to decide the matter of premature release of the petitioner afresh in the light of judgment passed by the coordinate Bench of this Court in the case of *Ajit Kumar Mishra (supra)* and pass the order as early as possible preferably within a period of three months from the date of receipt of a copy of this order.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2024
Transmission Date	21.09.2024

