

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.844 of 2022

Arising Out of PS. Case No.-49 Year-2003 Thana- RAHUI District- Nalanda

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Ajit Singh @ Ajay Kumar Singh, Son of Late Yadunandan Singh, Resident of
Village - Shyam Nagar, P.S.- Deep Nagar, Distt.- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar through the Principal secretary Home Deptt., Bihar ,
Patna.
2. The Chairman, Bihar State Sentence Remission Board, Patna.
3. The Inspector General (Prison), Bihar, Patna.
4. The Assistant Jail Inspector General Bihar, Patna.
5. The Jail Superintendent,. Mandal Kara, Bihar Sharif, Nalanda.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate
For the Respondent/s : Ms. Divya Verma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 15-07-2024

I.A. No. 1 of 2022

It appears that by filing this application, the petitioner is seeking to challenge recommendation of the Bihar State Sentence Remission Board (hereinafter referred to as the ‘Board’) made on 09.09.2022 which has been enclosed with the counter affidavit of the State as Annexure ‘B’.

2. There is no opposition to this application, hence, it is allowed. It will form part and parcel of the writ application.

3. Heard learned counsel for the petitioner and learned AC to AAG-3 for the State.

4. The petitioner in this case has challenged the decision of the Board taken on 09.09.2022 (Annexure 'B' to the counter affidavit) whereby and whereunder the request of this petitioner for premature release in terms of the Remission Policy of the State has been rejected on the ground that the case of the petitioner would be covered under clause (iv) (क) of the Notification No. 3106 dated 10.12.2002 and further in the light of the judgment of this Court in **Cr.WJC No. 1330 of 2021 (Chitranjan Kumar @ Babloo versus the State of Bihar and Others)**.

5. Learned counsel for the petitioner submits that in this case, the petitioner was convicted vide judgment dated 31.01.2007 and sentenced vide order dated 05.02.2007 by learned Additional Sessions Judge, Fast Tract Court No. 1, Nalanda in Sessions Trial No. 669A of 2003 arising out of Rahui (Bhagan Bigha) P.S. Case No. 49 of 2003 for the offences punishable under Sections 364A/34 of the Indian Penal Code.

6. This Court has held in a number of judgments that the Notification No. 3106 dated 10.12.2002 has been implemented with effect from 25.09.2007. The judgment of this Court on this point has attained finality, therefore, there was no question of rejection of the prayer of the petitioner by applying Notification No. 3106 dated 10.12.2002.

7. Learned counsel further submits that the case would be covered by the decision of this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava Vs. The State of Bihar through its Chief Secretary, Home and Others** reported in **2022 (1) PLJR 217** which view has been affirmed by the Hon'ble Division Bench in the case of **Munna Singh @ Ajay Sharma Vs. the State of Bihar and Others** reported in **2024 SCC OnLine Pat 894**. Learned counsel points out that the judgment of the learned Single Judge of this Court in **Cr.WJC No. 1330 of 2021 (Chitranjan Kumar @ Babloo versus the State of Bihar and Others)** has not been approved by the Hon'ble Division Bench in the case of **Munna Singh @ Ajay Sharma** (supra). It is, thus, submitted that the rejection of the prayer of the petitioner for premature release is fully arbitrary and suffers from non-consideration of the relevant materials.

8. Ms. Divya Verma, learned AC to AAG-3 appears for the State. Learned counsel agreed with the submissions made on behalf of the petitioner that the case of this petitioner would be covered by the judgment of this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava** (Supra) and **Munna Singh @ Ajay Sharma** (Supra).

9. Having regard to the aforesaid submissions, this Court sets aside the impugned decision dated 09.09.2022 taken by the

Board in respect of this petitioner and directs the Board to consider the case of the petitioner afresh and take an appropriate decision within a period of sixty days from the date of receipt/communication of a copy of this order. It goes without saying that while considering the case of the petitioner, the Board would be obliged to consider it in the light of the judgment of this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava** (Supra) and **Munna Singh @ Ajay Sharma** (Supra)

10. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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