

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1224 of 2023

Arising Out of PS. Case No.-73 Year-2004 Thana- MASAUDHI District- Patna

Sujit Kumar @ Lathi Singh S/O Sri Chhotan Singh R/O Village- Lahsuna, Ps.
Masaurhi, Dist. Patna, Bihar

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna
2. The State 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 Deptt. Govt. of Bihar, Patna
5. The Inspector General, Jail and Reforms Services, Patna, Bihar
6. The Assistant Inspector General, Jail and Reforms Services, Patna, Bihar

... .. Respondents

Appearance :

For the Petitioner/s	:	Ms. Soni Shrivastava, Advocate Ms. Sarandha Suman, Advocate
For the Respondent/s	:	Mr. P.N. Sharma, AC to AG

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 12-08-2024

Heard learned counsel for the petitioner and Mr. Prabhu
Narayan Sharma, learned AC to AG for the State.

2. The petitioner in this case is aggrieved by and dissatisfied with the decision of the State Remission Board (hereinafter referred to as the ‘Board’/ ‘Remission Board’) taken in its meeting held on 20.04.2023 (Annexure ‘7’) (hereinafter referred to as the ‘impugned decision’) whereby and whereunder the request of the petitioner for his premature release has been

rejected citing clause (iv) (kha) of the Notification No. 3106 dated 10.12.2002.

Submission on behalf of the Petitioner

3. Learned counsel for the petitioner would submit that the decision of the Board does not reflect application of judicious mind as it would appear that the Board has vaguely referred the reason for rejection giving an impression that the petitioner has been convicted for committing murder of four persons with a pre-meditated mind.

4. Learned counsel has taken this Court through the findings of this Hon'ble Court recorded in paragraphs '48' to '50' of the judgment in Cr. Appeal (DB) No. 72 of 2008 and other analogous matters. Referring to the findings in paragraph '50' of the judgment, learned counsel submits that the only evidence against the present petitioner was that he happened to be the member of an unlawful assembly resorting to firing, guided by mob mentality. It is submitted that there is no finding that this petitioner had acted with pre-meditation of mind in the commission of the offence.

5. It is further pointed out that all relevant reports which were required by the Board for purpose of consideration of the case of the petitioner for premature release, were found

favourable. It is also submitted that the petitioner has already spent more than 18 years in actual incarceration and more than 23 years with remission.

Stand of the State

6. Mr. Prabhu Narayan Sharma, learned AC to AG for the State has at the outset submitted that the decision of the Board does not contain a finding in tune with the judgment of the Hon'ble Court. It is admitted at the Bar that there is no finding against the petitioner that he had committed offence with pre-meditation of mind.

7. Learned AC to AG for the State, therefore, submits that in such circumstance, the matter may be remanded to the Remission Board for fresh consideration.

Consideration

8. Having regard to the submissions noted hereinabove and the materials on the record, this Court finds substance in the submissions of learned counsel for the petitioner. Paragraphs '48' to '50' of the judgment of this Court in Cr. Appeal (DB) No. 72 of 2008 and other analogous matters are being reproduced hereunder for a ready reference:-

“48. Taking into consideration the entire evidence since the prosecution has duly established that 60-70 persons came making firing causing death of four persons and the death of four persons having been established by the

inquest report and the post mortem report, the place of occurrence has been established by the witnesses and the investigating officer and the occurrence at about the time and days established by the evidence of P.Ws. 8, 10 and 11, who have named the appellants having taking participation in the occurrence and have been identified. The evidence of three witness who have supported the prosecution case is in regarding the participation of the appellants in the unlawful assembly resorting to firing causing death of four persons and, hence, the participation of the appellants has been established by cogent, reliable and unimpeachable evidence.

49. I find and hold that the prosecution has been able to establish the charges against the appellants under Section 302/149 of the Indian Penal Code.

50. However, as the sentence of the appellants is concerned, there is only evidence that the appellants were members of the unlawful assembly resorting to firing, guided by mob mentality and, hence, as per the allegation and evidence it is not one of the rare of rarest case for extreme punishment, hence, the end of justice shall meet by converting the penalty of death to imprisonment for life against the appellants and, hence, with this modification in sentence the Criminal Appeals are dismissed.”

9. This Court finds that there is no finding of commission of offence by the petitioner with pre-meditation of mind, hence, in the opinion of this Court, the observations of the Remission Board in its impugned decision is not based on any material on the record. The observations being baseless, the impugned decision is liable to be quashed and cancelled.

10. Accordingly, this Court quashes the impugned decision of Board as regards this petitioner. The Board is directed to consider the case of the petitioner afresh keeping in view the discussions made hereinabove.

11. Such decision be taken within a period of two months from the date of communication of a copy of this order. The Board shall act with some urgency as this Court has been informed that the petitioner has already spent more than 18 years in actual incarceration and more than 23 years with remission.

12. This writ application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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