

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1006 of 2022

Arising Out of PS. Case No.-105 Year-2006 Thana- NAGAR District- Vaishali

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Birendra Bhagat, S/O Mahavir Bhagat, Resident Of Village- Fakuli, P.S.-
Kudhani, District- Muzaffarpur.

... .. 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 Department (Prison), Bihar, Patna.
4. The Secretary, Law Department, Government 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, Khudi Ram Bose Central Jail, Muzaffarpur. Bihar

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Vijay Kumar Singh, Advocate
	:	Mr. Abhinav Shandilya, Advocate
For the State	:	Mr. Prabhu Narayan Sharma, AC. To AG.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 15-07-2024

I.A. No. 1 of 2022

By filing this interlocutory application, the petitioner has questioned the decision of the Bihar State Sentence Remission Board (hereinafter referred to as the 'Board/Remission Board') taken in its meeting held on 09.03.2022 (Annexure 'P-3') whereby and whereunder the request of this petitioner for his premature release in terms of the Remission Policy of the State Government has been

rejected on the ground that the case of the petitioner would be covered under clause (iv) (क).

2. There is no opposition of this application, hence, I.A. No. 1 of 2022 is allowed and taken on the record.

3. Heard learned counsel for the petitioner as well as learned AC to AG for the State.

4. Learned counsel for the petitioner submits that the petitioner was convicted vide judgment dated 24.01.2008 and sentenced vide order dated 28.01.2008 by learned Additional District and Sessions Judge, Vaishali at Hajipur in Sessions Trial No. 422 of 2006 arising out of Hajipur Town (Industrial Area) P.S. Case No. 105 of 2006 corresponding to G.R. No. 613 of 2006 for the offences punishable under Sections 364A, 302/34 and 201 of the Indian Penal Code.

5. Learned counsel for the petitioner submits that even if the Notification No. 3106 dated 10.12.2002 is made applicable in case of the petitioner, the fact remains that the word 'आदि' appearing in clause (iv)(क) of the notification had already been removed vide Notification No. 3194 dated 26.05.2016 by which Rule 481 of Bihar Jail Manual, 2012 was amended.

6. Learned counsel further submits that this Court had considered clause (iv)(क) of the notification 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 submits that in view of the aforesaid decision, the case of the petitioner could not have been rejected under clause (iv)(क).

7. Mr. Prabhu Narayan Sharma, learned AC to AG does not controvert the aforesaid submission that the case of the petitioner is required to be considered keeping in view the judgment of this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava** (Supra) and **Munna Singh @ Ajay Sharma** (Supra).

8. Having regard to the aforementioned submissions and the stand of the State, this Court sets aside the impugned order as contained in Annexure ‘P-3’ of I.A. No. 1 of 2022 in respect of the petitioner and directs the Board to consider this case afresh keeping in view the judicial pronouncements on this subject. A reasoned decision be taken within a period of 60 days from the date of the receipt/communication of a copy of this order.

9. This application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.07.2024
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