

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1285 of 2023

Arising Out of PS. Case No.-13 Year-2007 Thana- RAGHUNATHPUR District- Siwan

Vinod Kumar Singh @ Jalim Singh S/O Late Nagina Singh, R/O Village-
Chhitooni, P.S- Muriyari, Distt.- Balia (U.P).

... .. Petitioner

Versus

1. The State of Bihar through the Home Secretary, Govt. of Bihar, Patna.
2. The Inspector General(Prison), Govt. of Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Magistrate, East Champaran, Motihari.
5. The Superintendent of Police, Siwan.
6. The Superintendent of Police, East Champaran, Motihari.
7. The Probation Officer, East Champaran, Motihari.
8. The Jail Superintendent, Central Jail, Motihari.
9. The Bihar State Sentence Remission Review Board through its Chairman,
Home Secretary, Govt. of Bihar.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Amresh Kumar, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 12-08-2024

Heard Mr. Ramakant Sharma, learned Senior Counsel
assisted by Mr. Amresh Kumar, learned counsel for the petitioner
and Mr. Sheo Shankar Prasad, learned SC-8 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’) passed
on 20.04.2023 (Annexure ‘1’) (hereinafter referred to as the
‘impugned decision’) whereby and whereunder the case of the

petitioner for premature release has been rejected citing clause (iv) (ka) and clause (iv) (kha) of the Notification No. 3106 dated 10.12.2002. The petitioner has spent 17 years and 3 months in actual incarceration and more than 20 years with remission.

Submission on behalf of the Petitioner

3. Learned Senior Counsel for the petitioner submits that earlier in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava vs. the State of Bihar and Ors.** reported in **2022 (1) PLJR 217**, this Court has already taken a view that clause (iv) (ka) of the Notification would not cover the cases in which the conviction has taken place under Section 364A of the Indian Penal Code. Learned Senior Counsel submits that the said judgment has attained finality, still the Remission Board is, instead of following the said judgment, relying upon the judgment of learned Co-ordinate Bench of this Court in the case of **Chitranjan Kumar @ Babloo Vs. The State of Bihar & Ors.** (Cr.WJC No. 1330 of 2021).

3. Learned Senior Counsel submits that recently the Hon'ble Division Bench of this Court has in the case of **Munna Singh @ Ajay Sharma versus the State of Bihar and Others** (Cr.WJC No. 722 of 2023) considered the reference made by this Court and upon a threadbare discussion of the two judgments and

the relevant provisions of law, the Hon'ble Division Bench held that the views expressed by this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava** (supra) is the correct view.

4. It is submitted that as regards the reports on which the Remission Board has relied upon, the Board has not indicated as to how the Probation Officer/ Superintendent of Police reports are adverse to the petitioner. Such reports have not been brought on the record. Referring to the judgments of the Hon'ble Supreme Court in the case of **Laxman Naskar v. Union of India** reported in **(2000) 2 SCC 595** and **Rajo @ Rajwa @ Rajendra Mandal Vs. the State of Bihar and others** reported as **2023 INSC 771 (Writ Petition (Criminal) No(s). 252/2023)**, learned Senior Counsel submits that the reports of the Superintendent of Police as well as the Probation Officer would be required to be examined keeping in view the guidelines laid down by the Hon'ble Supreme Court.

Stand of the State

5. Mr. Sheo Shankar Prasad, learned SC-8 for the State has drawn the attention of this Court towards the statements made in paragraphs '8', '9' and '10' of the counter affidavit. It is his submission that the offence of kidnapping is as heinous as the

offence of rape, dacoity and terrorist crimes and it is for this reason that the Board has rejected the prayer for premature release of the petitioner. Learned counsel has also referred the order dated 05.08.2022 passed in the case of **Chitranjan Kumar @ Babloo Vs. The State of Bihar & Ors. (Cr.WJC No. 1330 of 2021)**.

6. Having said so, learned SC-8 for the State does not dispute that the views expressed by the learned Co-ordinate Bench in the case of **Chitranjan Kumar @ Babloo** (supra) was subject matter of the reference before the Hon'ble Division Bench in the case of **Munna Singh @ Ajay Sharma** (supra) and the Hon'ble Division Bench has not approved the views of the learned Co-ordinate Bench in the case of **Chitranjan Kumar @ Babloo** (supra).

Consideration

7. Having heard learned Senior Counsel for the petitioner and learned SC-8 for the State, this Court finds that the Board has not considered the case of the petitioner keeping in view the judgment of this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava** (supra) which has attained finality and the views expressed in the said case has been approved by the Hon'ble Division Bench in the case of **Munna Singh @ Ajay Sharma** (supra). Since the very consideration of

the Board is based on a decision the views of which has not been approved by the Hon’ble Division Bench, in the opinion of this Court, the decision of the Board is liable to be set aside.

8. Accordingly, this Court sets aside the impugned decision of the Board and directs the Board to consider the case of the petitioner afresh keeping in view the judgments of the Hon’ble Supreme Court in the case of **Laxman Naskar** (supra) and **Rajo @ Rajwa @ Rajendra Mandal** (supra) and then the judgment of this Court in the case of **Pradeep Kumar Srivastava @ Pradip Kumar Srivastava** (supra) and **Munna Singh @ Ajay Sharma** (supra).

9. Such decision shall be taken within a period of two months from the date of communication of a copy of this order. This petitioner has already spent 17 years and 3 months in actual incarceration and more than 20 years with remission, therefore, the Board must consider the case afresh with all urgency.

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

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	
CAV DATE	
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