

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1246 of 2022

Arising Out of PS. Case No.-193 Year-1988 Thana- ARWAL District- Jehanabad

Lakshman Saw, Son of Late Bihari Saw, Resident of village - Bhadasi, P.S.
and District – Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna, Old Secretariat, Patna. Bihar
2. The Principal Secretary, Ministry of Home, Government of Bihar, Patna. Bihar
3. The State Sentence Remission Board through its Chairman, Government of Bihar, Patna. Bihar
4. The Law Secretary-cum-Legal Remembrance, Department of Law, Govt. of Bihar, Patna. Bihar
5. The Director General of Police, Government of Bihar, Patna. Bihar
6. The Director, Probation Services, Government of Bihar, Patna. Bihar
7. The Inspector General (Prison) and Jail Reforms, Government of Bihar, Patna. Bihar
8. The Additional Director General of Police, Criminal Investigation Department, Govt. of Bihar, Patna Bihar
9. The Jail Superintendent, Central Jail, Gaya. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No.2, Advocate
For the Respondent/s : Mr. Prabhu Narayan Sharma, AC to AG

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 29-01-2026

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The instant writ petition has been filed by the
petitioner seeking following reliefs :

*“(i) For quashing the order dated 05.03.2020
passed by the Bihar State Sentence Remission*



Board through its Chairman, Government of Bihar, Patna (Respondent No.3), whereby and where under the recommendation for premature release of the petitioner has been rejected.

(ii) For issuance of direction to the respondent authorities particularly the Remission Board to consider the case of the petitioner for premature release as the petitioner has already completed his custody more than 20 years without remission.

(iii) And/or any other relief or reliefs to which the petitioner may be found entitled to in course of hearing of this writ application”.

3. The learned counsel for the petitioner submits that the petitioner was an accused in Arwal P.S. Case No. 193 of 1988. He had been convicted by the learned Sessions Judge-cum-Special Judge, TADA, Jehanabad under Section 3(3)(1) of the TADA Act, 1987 and Sections 307/149, 302/149, 353/379 of the Indian Penal Code and Section 27 of the Arms Act vide judgment of conviction dated 21.07.2003 passed in G.R. Case No. 7/1992, arising out of Arwal P.S. Case No. 193 of 1988 and has been sentenced to undergo rigorous imprisonment for life with fine vide order of sentence dated 04.08.2003. Being aggrieved by the aforesaid judgment and order, the petitioner and other convicts filed Cr. Appeal Nos. 1285 of 2003 and 1297



of 2003 before the Hon'ble Supreme Court, which came to be dismissed vide judgment dated 02.04.2004. The learned counsel further submits that after completion of required period of incarceration for consideration of premature release, the concerned respondent requested the prescribed authorities to submit recommendations for premature release of the petitioner. Thereafter, the Probation Officer, Jail Superintendent, the Superintendent of Police and the Presiding Officer have recommended the case of the petitioner for his premature release. After obtaining the reports from all the prescribed authorities, the Jail Superintendent sent the proposal of the petitioner for his premature release to the Bihar State Sentence Remission Board (hereinafter referred to as 'the Board'). The Board in its meeting dated 05.03.2020 rejected the proposal of the petitioner for his premature release.

4. The learned counsel further submits that the Board in a routine and mechanical manner, rejected the proposal of premature release of the petitioner in the light of Para (iv)(a) of Notification No. 3106 dated 10.12.2002 of the Home (Special) Department, Govt. of Bihar, according to which the prisoner convicted for the heinous offences such as rape, dacoity, terrorist crimes etc. would not be eligible for his premature release.



5. The learned counsel further submits that notwithstanding the fact that there is favourable report of all the prescribed authorities, his case for premature release was not considered, though the petitioner had already completed 14 years of his physical incarceration and 20 years with remission till the month of February, 2016.

6. The learned counsel further submits that the Board has ignored the orders passed in similar matters by this Court, such as, *the order dated 21.11.2016* passed in *Cr.WJC No. 1053 of 2016*, *the order dated 15.12.2016* passed in *Cr.WJC No.1245 of 2016*, *the order dated 20.12.2016* passed in *Cr.WJC No. 1288 of 2016*. The learned counsel further submits that one Tribhuwan Sharma, who is co-convict, filed *Cr. WJC No. 748 of 2017* through his son Chandra Kant Kumar and in that case also, this Court directed the Board to consider the case of the petitioner and finally, he had been released from the custody.

7. The learned counsel further submits that the judgments of this Court in *Cr.WJC No. 861 of 2021 (Md. Alauddin Ansari Vs. The State of Bihar & Ors.)*, *Cr.W.J.C. No. 2128 of 2018 (Sikander Mahto Vs. The State of Bihar & Ors.)*, *Cr.WJC No.1090 of 2009 (Anita Devi Vs. the State of Bihar & Ors.)*, *Cr.WJC No. 476 of 2010 (Ramanuj Sharma Vs. the State of Bihar & Ors.)* *Cr.WJC No.1053 of 2016*



(Ramanuj Sharma Vs. the State of Bihar & Ors.), Cr.WJC No.1027/2019 along with Cr.WJC No.53 of 2019 (Chandrakant Kumar Vs. the State of Bihar & Ors.), have attained finality and the State respondents cannot take any stand contrary to the ratio laid down by this Court in the aforementioned judgments.

8. The learned counsel further submits that if the co-convict from the same judgment has already been released from the custody, then the rejection of premature release of the petitioner is totally baseless and discriminatory in nature. In fact, the Board has not considered this aspect of the matter that the Notification dated 10.12.2002 is not applicable at all in the case of the present petitioner. In support of his contention, the learned counsel refers to the decision dated **19.04.2024** of learned Coordinate Bench of this Court in ***Cr.WJC No. 1011 of 2021***.

9. The learned counsel further submits that the action of the Board for not granting premature release of the petitioner is discriminatory in nature since the Board on the basis of pick and choose method granted premature release to the life convict even in the heinous offences.

10. The learned counsel further submits that in the case of one Shyam Choudhary who was convicted along with the



petitioner and whose pre-mature release was denied by the Board approached this Court vide ***Cr.WJC No. 1503 of 2017*** and this Court after hearing the parties set aside the refusal of the premature of the writ petitioner and directed the Board to consider the case of the petitioner afresh.

11. The learned counsel further submits that it is evident from the decision of the Board that they are still rejecting the applications for premature release without looking into the judgments of this Court, otherwise in the case of the petitioner who has been convicted prior to 15.09.2007, the rejection would not have taken place by applying the Notification No. 3106 dated 10.12.2002.

12. On the other hand, learned counsel for the State submits that the recommendation of the Board, rejecting the proposal of the premature release of the petitioner in the light of the Notification dated 10.12.2002, is quite sustainable in the eyes of law. However, he concedes that the case of petitioner stands on same footing with that of case of Tribhuwan Sharma as well as Shyam Choudhary, as both of them have been convicted in the same trial and by the same judgment.

13. I have given my thoughtful consideration to the rival submission of the respective parties and perused the records.



14. As already noted, the proposal of premature release of the petitioner was rejected in the light of clause (iv) (ka) of the aforesaid Notification dated 10.12.2002.

15. Now, clause (iv) of the Notification dated 10.12.2002 reads as under :

“(iv) Ineligibility for premature release.

The following category of convicted prisoners undergoing life sentence may not be considered eligible for premature release:-

(a) Prisoners convicted of the heinous offences such as rape, dacoity, terroist crimes etc.

(b)Prisoners who have been convicted for organised murdered in a premeditated manner and in an organised manner.

(c) Professional murderers who have been found guilty of murder by hiring.

(d) Convicted prisoners, who commit murder while involving in smuggling operations or who are guilty of murderer of public servants on duty.”

16. It has been contended on behalf of the parties that recently in ***Cr.WJC No. 722 of 2023 (Munna Singh @ Ajay Sharma versus the State of Bihar and Others)***, the Hon’ble Division Bench of this Court has approved the judgment of this Court rendered in the case of ***Pradeep Kumar Srivastava @ Pradip Kumar Srivastava versus the State of Bihar and Others reported in 2022 (1) PLJR 217*** and ***Ajit Kumar Mishra versus the State of Bihar and Others reported in 2023 (5) BLJ 783.***



17. By virtue of the judgment of this Court and the views expressed by the Hon'ble Division Bench of this Court, it is now settled that the first valid meeting of the Board had taken place on 15.09.2007, therefore, in all such cases in which the judgment of the trial court came prior to 15.09.2007, the earlier policy would be acted upon by the State Government.

18. It appears in number of cases, this Court has noticed that prior to the said date, the Board had been recommending the cases of the convicts keeping in view the earlier policy in this regard.

19. The learned counsel for the State accepts at the Bar that now after the Hon'ble Division Bench judgment of this Court in ***Cr.WJC No.722 of 2023***, the views expressed by this Court in the earlier cases will be deemed to have been approved and in such circumstance, this decision being in the teeth of the judgments of this Court may be set aside and the matter may be remitted to the Board for fresh consideration.

20. In the light of discussion made hereinbefore, this Court is of the considered view that the impugned order has been passed by the Board in a routine and mechanical manner which is not in consonance with the judicial pronouncements of the Hon'ble Supreme Court as well as this Court since there being an admitted position that the Notification dated



10.12.2002 cannot be applied in the case of the petitioner.

21. Therefore, this writ application succeeds. The decision of the Board dated 05.03.2020, so far it concerns the petitioner, is quashed.

22. This Court directs the Board to convene a meeting within a period of four weeks from today and consider the proposal for premature release of the petitioner afresh in the light of the judgments of this Court which have been taken note of hereinabove for a ready reference. The Board is expected to take appropriate decision without deviating from the judicial pronouncements on the subject. Let such decision be taken and communicated to the petitioner within a period of two months from today.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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