

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO.446/2023

ROHIT CHATURVEDI

PETITIONER(S)

VERSUS

STATE OF UTTARAKHAND & ORS.

RESPONDENT(S)

ORDER

The petitioner has been convicted under Section 120-B read with Section 302 of the Indian Penal Code 1860, by the Special Judge, Dehradun. The offence in connection with which he was tried had occurred in the State of Uttar Pradesh. The trial, however, was transferred from Uttar Pradesh to the State of Uttarakhand by an order passed by this Court on 8th February, 2007. The judgment of conviction and the order of sentence was subsequently confirmed by the High Court of Uttarakhand at Nainital on 16th July, 2012.

The petition for special leave to appeal registered as SLP(Crl.) No. 7507 of 2013 against that judgment was also dismissed by an order of this Court passed on 19th November, 2013.

So far as the present petition is concerned, the petitioner wants his plea for premature release in terms of the remission policy formulated under

Section 433 of the Code of Criminal Procedure, 1973 to be considered. It appears that the prayer for remission was originally made before the Union of India and the same was sent to the State of Uttarakhand. The State of Uttarakhand has examined the issue and rejected his plea. The point now being raised by the petitioner is that the Government of Uttar Pradesh would have been the proper authority for considering the remission plea as the offence had occurred within that State. This appears to be the position of law, as enunciated by a Coordinate Bench of this Court in the case of *Radheshyam Bhagwandas Shah Alias Lala Vakil Vs. State of Gujarat and Another* reported in 2022 (8) SCC 552. In this judgment, it was held:-

"14. In the instant case, once the crime was committed in the State of Gujarat, after the trial had been concluded and judgment of conviction came to be passed, all further proceedings have to be considered including remission or premature release, as the case may be, in terms of the policy which is applicable in the State of Gujarat where the crime was committed and not the State where the trial stands transferred and concluded for exceptional reasons under the orders of this Court."

This being the position of law, the entire exercise conducted by the State of Uttarakhand appears to be without jurisdiction and hence not sustainable under the law. We, accordingly, direct

that the remission plea which was filed by the petitioner-convict be sent to the Home Secretary, State of Uttar Pradesh by the State of Uttarakhand. This shall be done within a period of three weeks from date. Thereafter, the State of Uttar Pradesh shall examine the question and take a decision in that regard within a further period of eight weeks.

The State of Uttar Pradesh shall consider the plea without being influenced in any manner by the order passed by the State of Uttarakhand and any observation made therein.

The present petition shall stand disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

.....J.
[ANIRUDDHA BOSE]

.....J.
[AUGUSTINE GEORGE MASIH]

NEW DELHI;
DECEMBER 15, 2023.

ITEM NO.1

COURT NO.5

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Criminal) No. 446/2023

ROHIT CHATURVEDI

Petitioner(s)

VERSUS

STATE OF UTTARAKHAND & ORS.

Respondent(s)

(FOR ADMISSION and IA No.196543/2023-INTERIM BAIL and IA
No.196542/2023-EXEMPTION FROM FILING O.T.)

Date : 15-12-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. N. Hariharan, Sr. Adv.
Mr. Aditya Vaibhav Singh, Adv.
Mr. Sharian Mukherji, Adv.
Ms. Vanya Gupta, AOR
Mr. Mueed Shah, Adv.

For Respondent(s) Mr. Ankur Prakash, AOR
Mr. Ashutosh Kumar Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The present petition stands disposed of in
terms of the signed order which is placed on the
file.

Pending application(s), if any, shall stand
disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
ASSISTANT REGISTRAR