

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1079 of 2013

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Nageshwar Singh, Son of Late Ram Bahadur Singh, Resident of Village-
Ramgama, P.S.- Patory, District- Samastipur

.... Petitioner

Versus

1. The State of Bihar through the Director Prosecution Bihar, Patna
2. The Superintendent of Police, Samastipur
3. The Deputy Superintendent of Police, Samastipur
4. The Registrar, Civil Court, Samastipur
5. The Inspector of Police, Harijan Police Station, Samastipur
6. Most. Sumitra Devi Wife of Late Sakhichand Baitha, Resident of
Village- Ramgama, P.S.- Patory, District- Samastipur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Nitya Nand Neeraj, Advocate
For the Respondent/s : Mrs. Shail Kumari, SC-15

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 07-01-2015

The petitioner has been made accused in Harijan P.S.
Case No. 60 of 1995 registered for the offences punishable
under Sections 323, 448, 354, 342, 379 of the Indian Penal Code
and 3(1) (x) of the S.C. & S.T. (Prevention of Atrocities) Act.

Initially, he was granted bail by the Court below.
After cognizance of the offence, summon was issued against him
on 18th January, 2002. The petitioner failed to appear before the

Court and after exhausting all the process, the Court issued process against him under Section 83 of the Code of Criminal Procedure. Till date, the petitioner has not surrendered before the Court.

An averment has been made in paragraph 14 of the writ petition that the petitioner had applied for issuance of certified copy of the case diary but the same was not furnished to him by the copying department.

In the instant writ petition, the prayer of the petitioner is to direct the learned Judicial magistrate-1st Class, Samastipur before whom the case of the petitioner is pending to dispose of the surrender-cum-bail petition of the petitioner filed on 9th January, 2013 in connection with Tr. No. 760 of 2012 (G.R. No. 5 of 1996) arising out of Harijan P.S. Case No. 60 of 1995.

It is apparent from the vakalatnama of the petitioner that the petitioner is not in custody. Admittedly, he is an absconder. It is well settled that copy of police diary is a confidential document. An accused has no right to obtain the same. In compliance of Section 207 of the Code of Criminal Procedure, an accused has a right to obtain statements recorded under Section 161(3) of the Code of Criminal Procedure of all

persons whom the prosecution proposes to examine as its witnesses. However, Section 172(3) of the Code of Criminal Procedure clearly debars the accused from looking into the case diary. The case diary is not a public document and certified copy of case diary can not be supplied to anyone.

In any case unless the petitioner submits himself to the jurisdiction of the court, his application for surrender-cum-bail cannot be considered. The petition is thoroughly misconceived.

Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J.)

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