

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.447 of 2015

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Raju Singh S/o Ram Darshan Singh Resident of Village Rampur Uttar,
Police Station Forbesganj, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Home (Police) Government of Bihar, Patna.
2. The Deputy Secretary, Department of Home (Police), Government of Bihar, Patna.
3. The Joint Secretary, Department of Home (Police), Govt. of Bihar, Patna.
4. The District Magistrate, Araria.
5. The Superintendent of Police, Araria.
6. The Superintendent of Jail, Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikramdeo Singh
Mr. Mukesh Kumar Rana
For the State : Mr. Vikas Kumar, AC to AG

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

4 06-08-2015 Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner seeks quashing of the order dated
27.2.2015 passed in Crime Control Case No. 10-05/2015 by the
District Magistrate, Araria under Section 12(2) of the Bihar
Control of Crimes Act, 1981 (in short 'the Act') as also the order
dated 24.3.2015 passed by the State Government by which the
detention order has been confirmed under Section 21(1) and 22 of
the said Act.



The brief facts of the case are that on the basis of a report of the Deputy Superintendent of Police (Mufassil), Araria through the Superintendent of Police, Araria to the District Magistrate, Araria a proposal was made for preventive detention of the petitioner under Section 12(2) of the Act. Pursuant to the same, the District Magistrate passed the impugned order dated 27.2.2015. In the said order reference was made to the fact that the petitioner was involved in Forbeasganj P.S. Case No. 610/2014 dated 26.08.2014 under Sections 366A, 370A, 372, 373 and 376 of the Indian Penal Code and Sections 3,4,5 and 6 of the Immoral Trafficking Prevention Act and Section 4 of the Protection of Children from Sexual Offence Act, 2012. It was alleged that the petitioner is a notorious and professional criminal against whom many criminal cases have been filed in which charge sheets have also been submitted and that he is involved in trafficking of girls in Araria district and involving them in prostitution, etc. It was further stated in the order that he was at present in custody in the said case in Divisional Jail, Araria but making attempt to be granted bail and if he comes out on bail, it will cause serious disturbances to the maintenance of security and thus it was essential to detain him. Reference was made to the report of the Superintendent of Police about the fact that the



petitioner had applied for bail being B.P.No. 107/2014 dated 24.9.2014 which was rejected by the Sessions Judge by order dated 14.1.2015. The District Magistrate has also noted the previous criminal history of the petitioner regarding his involvement in Forbeasganj P.S.Case No. 155/1999 dated 17.5.1999 under Section 395 of the Indian Penal Code. Accordingly, the impugned order dated 27.2.2015 has been passed which has ultimately been approved by the State Government by order dated 24.3.2015 after following due procedure as prescribed under the Bihar Control of Crimes Act.

Learned counsel for the petitioner does not dispute the fact of the statutory provisions having been complied with although a statement has been made in the writ application about action not having been taken within the statutory period but in view of the statements made in the two counter affidavits filed on behalf of the State Government and the District Magistrate respectively, there does not appear to be any violation of the statutory requirements in the matter.

The submission of learned counsel for the petitioner is that on the basis of a single recent case it was not open to the District Magistrate to have passed the order of detention. It is also the contention of learned counsel that the

order of detention relates to a case which was filed in the month of August whereas the order of detention itself has been passed in the month of February, 2015.

It is further submitted by learned counsel that the statement of the District Magistrate that the petitioner was trying to get out on bail is his ipse dixit and the same vitiates the order of detention.

In support of his stand learned counsel for the petitioner has relied upon a decision of this Court in the case of Kaushal Mahto Vs. The State of Bihar & Ors.: 2014 (4) PLJR 204, relying upon paras 17 and 18 of the said decision which is quoted below:-

“17. Coupled with the above, the fact remains that both these cases were lodged as far back as on 4.4.2013; whereas the order of detention has been made by respondent No.3, namely, District Magistrate, Arwal, on 13.1.2014, i.e., after lapse of nine months.

18. Since no offence is alleged to have been committed by the petitioner between 4.4.2013 (i.e., the date on which the last case against the petitioner was lodged) and 13.1.2014 (i.e., the date on which the impugned order of detention was made), it was for the detaining authority to show as to how the alleged

commission of offences by the petitioner would have any bearing in the year 2014 if the petitioner was released on bail. In the absence of any reasons having been assigned, in this regard, by the State, one cannot help, but hold, and we do hold, that there was no proximity of time between the alleged commission of the offences by the petitioner, on one hand, and the impugned order of detention, on the other hand.”

Learned counsel for the State has supported the order of detention on the basis of materials available on the record.

So far as the question of staleness is concerned, the same does not appear to have any basis as the detention order itself has been passed on 27.2.2015 i.e. in approximately six months time after the date of lodging of Forbeasganj P.S. Case no. 610/2014. Moreover, it is evident from the materials on the record that the petitioner was detained in custody and he had applied for bail on 24.9.2014 and thus there was no occasion for the petitioner to have committed any further crime as he was in jail within a short period after lodging of the aforesaid Forbeasganj P.S. Case. Thus, the question of staleness raised by learned counsel for the petitioner has to be rejected.

On the point of the petitioner trying for bail being as ipse dixit, there is sufficient material on the record to show, of which the District Magistrate was aware, that the petitioner had, as a matter of fact, applied for bail before the Sessions Judge which was rejected by order dated 14.1.2015. Thus, there was nothing wrong in the statements made in the impugned order by the District Magistrate that the petitioner was trying for bail. As a matter of fact, it is admitted by learned counsel for the petitioner that subsequently the petitioner has been granted bail by this Court. Thus, there is no merit in the said submission.

The reliance by learned counsel for the petitioner on the judgment of this Court in the case of Kaushal Mahto (supra) also can be of no assistance to him as the case does not stand on similar footing.

Thus, in the light of the above discussions, the writ application is dismissed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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