

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1049 of 2016

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Shambhu Singh, Son of Babari Singh, a resident of Dhanaur, P.S. - Katra,
District - Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Assistant Secretary to the Government of Bihar.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Superintendent of Police, Patna.
6. The Sub-Divisional Police Officer, Law & Order, Patna.
7. The Jail Superintendent, Beur, Patna.
8. The Sub-Divisional Police Officer, Patna.
9. The Station House Officer, Rajiv Nagar, P.S. - Patna.
10. The Station House Officer, Buddha Colony, P.S. - Patna.
11. The Station House Officer of Shastri Nagar P.S. Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. K.N. Singh, Sr. Advocate.

For the Respondents : Mr. Ram Balak Mahto (AG)

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

5 22-11-2016 Heard Dr. K.N. Singh, learned senior counsel in support of the writ petition and also the learned counsel for the respondents.

By this writ petition the petitioner seeks issuance of writ of habeas corpus and challenges the order passed under preventive detention under the provision of Bihar Control of Crimes Act, 1981 for his preventive detention.

It is firstly urged that there could be no order for



detention for period of more than three months, which has a reference to Section 12 of the Bihar Control of Crimes Act. Similar submission as made has been noted and rejected by the different Benches of this Court including one of which one of us was a member in the case of *Roshan Kumar Thakur @ Roshan Thakur Versus The State of Bihar through the Chief Secretary & Ors.* since reported in 2016 (2) P.L.J.R. 121.

It was next contended that the petitioner having been detained and the detention order being for a period of one year, his detention had to be approved every three months by the Advisory Board.

We have noted this submission only to reject in terms of Article 22 of the Constitution, which only provides that in case of detention for a period longer than three months, it can only be made, if it is approved by the Advisory Board within a period of three months. Once approved his detention then it is valid for a period of one year. Thus, this contention is also unsustainable.

The last submission on behalf of the petitioner is that seventeen old cases have been mentioned, as a part of history, to show that the petitioner is a habitual offender. Out of these seventeen cases, the petitioner has already been acquitted, in three cases. He is neither named anywhere nor facing trial in nine

cases. As such, out of seventeen cases, in twelve cases the petitioner is not made an accused. It is submitted that order of satisfaction as recorded by the District Magistrate is vitiated as it is being based on the wrong issues of fact.

Having considered the matter, we are satisfied that this submission is also not liable to be accepted. The reasons for detention are based upon three fresh cases of the year 2016 involving the petitioner. They relate to demand of extortion. Once this fact is accepted that there are three recent criminal cases and that too for extortion, in our view, it is sufficient to categorize that the petitioner is a habitual offender for the purpose of the said Act.

That being so, it cannot be said that the ground of detention is invalid in any manner. Consequently, the petitioner cannot be said to be in custody in violation of the Constitutional provisions.

Accordingly, this writ petition is dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

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