

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.26 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- ARRARIA

Vikki Yadav @ Bikram Bharti S/o Shyam Sundar Yadav, resident of
Village- Dhata Tola, P.S.- Forbesganj, District- Araria

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of
Bihar, Patna

2. The Principal Secretary, Department of Home, Government of Bihar,
Patna

3. Director General of Police, Government of Bihar, Patna

4. The District Magistrate cum Collector, Araria, Bihar

5. The Superintendent of Police, District- Araria, Bihar

6. The S.H.O., P.S.- Forbesganj, District- Araria, Bihar

.... Respondents

Appearance :

For the Petitioner : Mr. Ajay Kumar Singh, Advocate

For the Respondents : Mr. Kaushal Kumar Jha, AAG-14

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 11-01-2016

This is a writ of habeas corpus in respect of the
petitioner who has been detained in terms of Bihar Control
of Crime Act, 1981 (hereinafter referred to as the “Act”).

Learned counsel for the petitioner submits that,
before the detention order was passed, he was not issued a



show cause, though, at that time, he was in judicial custody pursuant to being accused in two criminal cases. This, according to the learned counsel, vitiates the order of detention. We are unable to accept the submission as under the Act, no pre-detention show cause notice is required to be given to a detainee, it is the satisfaction of the detaining authority that is relevant.

It is next submitted that the petitioner has already been released on bail in both the cases. The order of detention itself mentions that petitioner is likely to be released on bail, and as such, the necessity of preventive detention. Preventive detention does not become void, if a person is released from judicial custody on bail. The very idea of preventive detention is to detain a habitual offender without any formal accusation or trial. Thus, merely the fact that the petitioner has been released on bail is no ground to challenge the detention order. It is thus submitted that petitioner has not been convicted in any offence, and as such, he cannot be termed as habitual offender. Again, we are unable to uphold the submission, inasmuch as if a person is already convicted then he would be serving jail sentence and preventive detention is not required to be

passed. Preventive detention is in addition to a normal judicial proceeding and is not in derogation thereof.

Thus, we find no merit in this writ application, it is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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