

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2545 of 2013

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1. Abhishek Upadhyay S/O Sri Shyam Babu Upadhyay R/O Mohalla- D.L.W. Jalalipatti, New Basti Jhulanpur B.S.C., P.S.- Manduadih, District- Varanasi (Uttar Pradesh)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director General Of Police, Bihar, Patna
3. The Home Commissioner (Police), Government Of Bihar, Patna
4. The Superintendent Of Police (Rail), Muzaffarpur
5. The Station House Officer Rail P.S. Darbhanga, Darbhanga
6. The Station House Officer, Rail P.S. Samastipur, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. MANISH KUMAR NO. 13

For the Respondent/s : Mr. PARTHA SARTHI SC10

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 13-01-2016

Heard the Counsels for the petitioner and the State.

An FIR vide GRP (SPJ) P.S. case No. 10 of 2012 was registered by the GRP at Darbhanga on 10.02.2012 on the complaint made by one passenger namely Ram Umendra Panjiyar. On the strength of the FIR, the petitioner was arrested on the same day on 10.02.2012 at 12:40 PM at the reservation counter while he was trying to get the unconfirmed ticket of the complainant/informant reimbursed. It is the case of the petitioner that he was not produced before the Magistrate for four days. On 16.02.2012, he was produced before the Magistrate and order of remand was passed whereafter, he was lodged in jail custody and is presently facing the trial arising out

of the said case.

The writ application seeks direction upon the respondents to pay compensation for illegally curtailing his fundamental right for at least for four days. The petitioner in this regard has relied on Article 22 of the Constitution of India, Sections 57 and 167 of the Code of Criminal Procedure.

Counsel for the State, on the other hand, submits that upon arrest of the petitioner, information was given on phone to his kith and kin. The delay, which occurred in producing the petitioner before the Magistrate and getting an order of remand, has been explained with reference to the details set out by the Investigating Officer in the case diary. It has been stated that at least five attempts were made by the police to produce the petitioner before the Magistrate but owing to the absence of the Railway Magistrate on leave and declination to pass order by the Magistrate on duty, the same could not be obtained. Subsequently, the order of remand was passed by the learned Magistrate on 16.02.2012, whereafter, he was sent to jail custody and is currently facing the trial in the Court.

It is not a case where the petitioner seeks a declaration that his detention beyond 24 hours reckoning from the date of arrest (10.02.2012) until he was produced before the Magistrate and remanded on 16.02.2012 be declared as illegal/unauthorized. It was

within the knowledge of the family of the petitioner about his arrest in connection with a cognizable case. No step, however, for declaring the detention of the petitioner as illegal/unauthorized was taken. Now, when as on today, the petitioner is under valid order(s) of remand passed by the Trial Court, the writ petition has been filed. As on today, the petitioner is in custody under valid order(s) of remand inasmuch as he is facing trial arising out of the case.

In the present writ petition, the petitioner has only prayed for compensation for his unauthorized detention for 04 days without getting a declaration on an appropriate application filed in this regard by the Court that his detention was unauthorized/illegal. This Court, in the present civil writ petition, would not grant the relief of such declaration.

Regard being had to above, I am not persuaded to entertain this application filed for grant of compensation.

The writ application is dismissed.

(Kishore Kumar Mandal, J)

Pankaj/Rohit

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