

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.376 of 2016

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Golu Yadav @ Rajnish Yadav, son of Shankar Yadav, R/o – Mohalla,
Pachawati, Ward No. 17 Gangala Saharsa, P.S. + District – Saharsa.

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary Home (Police) Department, Bihar, Patna.
3. The Under Secretary Home (Police), Department, Bihar, Patna.
4. The District Magistrate, Saharsa.
5. The Superintendent of Police, Saharsa.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Advocate

For the Respondent/s : Mr. Ram Balak Mahto

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

3 03-05-2016

Heard Sri Akhileshwar Prasad Singh, learned

senior counsel for the petitioner and learned counsel for
the State.

The petitioner as against the same order of
detention, virtually raising same grounds, has filed this
writ application challenging the detention order which
was dismissed vide judgment and order dated 11.02.2016
passed in Cr.W.J.C. No. 871/2015 by Division Bench of
this Court.

This petitioner has once again been filed the
writ assailing the same detention order virtually on same
grounds.



Mr. Akhileshwar Prasad Singh, learned senior counsel, submits that the petitioner was in judicial custody and had not yet been released and as such the District Collector ought not to have passed the detention orders. We have noticed this only for it to be rejected, because, the detention order has been passed by the District Collector. It is informed that the petitioner is trying to get out on bail and considering him to be habitual offender, if he manages to come out from custody this would cause serious problem to the public and accordingly, he had recommended for his detention. Thus, the District Collector was clear that the petitioner was in custody and it is only to prevent his release, the order was passed. There is, thus, nothing wrong in the order on this count. It is, then, urged that in terms of Section 12(2) of the Bihar Control of Crimes Act (hereinafter referred to as the “Act”), 1981, the detention order could not be passed for a period of more than three months.

We are afraid. We cannot accept this submission inasmuch as Section 12(2) of the Act does not deal with the detention order. It deals with authorization

granted by the State to the District Collector to pass detention orders. On this point, we may refer a judgment of this Court in the case of *Roshan Kumar Thakur @ Roshan Thakur Vs. The State of Bihar through Chief Secretary & Ors.* since reported in *2016 (2) PLJR 121*.

It is, then, submitted that the Court could not have passed the detention order to his own. We are again noticing the argument only for rejecting in terms of Section 21 of the Act.

In that view of the matter, we do not find any merit in this application. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

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