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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 566/2016

RAJESH BHATI

..... Petitioner

Through: Mr.Siddharth Yadav, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms.Richa Kapoor, ASC for the State
with SI Ashish Kumar PS Bhajanpura

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **27.10.2017**

1. The petitioner has filed the instant writ petition under Section 226 of the Constitution of India read with Section 482 Cr.P.C. with the following prayer:

“Issue a writ in the nature of mandamus directing the respondent to count the period spent by the petitioner in District Prisons Ghaziabad, U.P. from 1313 Days (09.09.05 to 18.04.07) & (17.05.08 to 14.05.10) in present matter i.e. FIR No.146/05, P.S. Bhajanpura, U/s 307/120-B IPC.”

2. The grounds on which the above prayer has been made by the petitioner are that:-

(i) he was produced before the learned Trial Court in case FIR No.146/05 U/s 307/120-B IPC, P.S. Bhajanpura during the period of 1313 Days (09.09.05 to 18.04.07) & (17.05.08 to 14.05.10) on issuance of production warrants on various dates.

(ii) he was in custody during said period (09.09.05 to 18.04.07) and (17.05.08 to 14.05.10) remains undisputed and if a person has remained in custody then his period of custody needs to be counted in all the cases, if he is an under-trial in all cases irrespective of the number of cases in which he is facing trial.

3. During the course of hearing, it is not disputed by learned counsel for the petitioner that while in custody in Dasna Jail, Ghaziabad, the petitioner was on bail in this case i.e. case FIR No.146/05 under Section 307/120-B IPC, P.S. Bhajanpura.

4. In such circumstances, merely because he was in custody and facing trial in other cases registered in Ghaziabad cannot be made a ground to count that period for purpose of seeking benefit under Section 428 CrPC in this case as well.

5. The writ petition is dismissed.

PRATIBHA RANI, J.

OCTOBER 27, 2017

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