

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1004 of 2016

Arising Out of PS. Case No.-145 Year-2016 Thana- SIWAN CITY District- Siwan

Upendra Singh son of Late Bishaiswar Singh, R/o village- Bhikhpur, P.S.-
Andar, District- Siwan. Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Home Police
Department , Govt. Of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Deputy Inspector General of Police, Saran Division, Saran, Chapra
4. The District Magistrate, Siwan
5. The Superintendent of Police, Siwan
6. The Sub-Divisional Officer, Siwan
7. The S.H.O. of Siwan Town Police Station, District- Siwan
8. The S.H.O. Andar Police Station, District- Siwan
9. The S.H.O., Hussainganj Police Station, District- Siwan
10. The S.H.O. Jirdaei Police Station, District- Siwan

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar
For the Respondent/s : Mr. Md. Nashrul Hoda Khan(Sc1)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 14-08-2018 It is the grievance of the petitioner that he has been

kept in illegal confinement even after he was granted bail in the

case in which he was arrested initially.

Learned counsel for the petitioner submits that the
Police authorities have acted arbitrarily in filing one application
after another in four cases to take this petitioner on remand with
an interval of one month when the petitioner had already been
granted bail and therefore, for such period when the petitioner
was not released despite the order of bail, he was confined in
jail without there being any reason or order of the court.

A perusal of the counter affidavit filed on behalf of



respondent no. 5 prima facie indicates that the Dy.S.P. (HQ), Siwan who has sworn the affidavit has, in fact, shifted the burden of producing the petitioner on the Superintendent of Jail. In his counter affidavit he has stated that after the Police filed production before the learned C.J.M. to remand the petitioner in Siwan Town P. S. Case No. 145 of 2016 registered under Sections 326, 307 of the Indian Penal Code and Section 27 of the Arms Act and the learned C.J.M. issued production warrant for remanding the petitioner in the case, it was the duty of the Superintendent of Jail to call for the deputation of escort party for production in the court of C.J.M., Siwan or he should have made over the petitioner to the escort party who are entrusted with the duty of producing under trial prisoners in the court.

This Court would not accept this kind of excuse coming in the affidavit sworn by the Dy.S.P. For the citizens of this country the Jail Superintendent and the other Police authorities are the same and one functionary of the State who have certain obligations upon them to take care of the fundamental rights of the citizen of the country. Lapses on their part which may result in illegal confinement of a person is to be viewed seriously, otherwise the whole concept or Article 21 of the Constitution will remain a hollow and shallow concept.



In the circumstances stated above, this Court would direct the Director General of Police, Bihar, Patna (respondent no. 2) to get the matter inquired into through a competent officer above the rank of the persons who are prima facie involved in not producing the petitioner before court in time.

Let such inquiry be completed within a period of two months from the date of receipt/production of a copy of this order. In case it is found that the petitioner was in fact confined in jail even after the bail order was issued in his favour in one case and then he was not taken on remand in another case, the respondent no. 2 shall pass appropriate order against the erring officers after giving them an opportunity in accordance with law.

This application stands disposed of accordingly.

In case, the inquiry reveals that the petitioner was illegally confined, he will have liberty to agitate his claim for adequate compensation.

(Rajeev Ranjan Prasad, J)

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