

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.582 of 2019

Arising Out of PS. Case No.-16 Year-2008 Thana- KATIHAR District- Katihar

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Sunil Kumar Son of Krishna Kuma Lal Resident of Mohalla - Gandhinagar,
P.S.- Katihar Town, District - Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar, Through Principal Secretary, Department Of Home, Government Of Bihar.
2. The Inspector General of Police, (C) Old Secretariat, Bihar, Patna. Patna.
3. The Director General of Police, Bihar, Patna. Patna.
4. The Director General of Police, Purnea, Division, Purnea. Purnea.
5. The Superintendent of Police (C) Central Investigation, Department Bihar, Patna. Patna.
6. The Superintendent of Police, Katihar. Katihar.
7. Superintendent of Police, Economic Offence Unit, Patna. Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh
For the Respondent/s	:	Mr.Prabhat Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 08-04-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

This application under Article 226 of the Constitution of India has been filed by the petitioner for directing the respondents to pay compensation under the public law remedy as the petitioner was wrongly apprehended by the police in connection with Katihar Town P.S. Case No. 16 of 2008 dated 05.02.2008.

Learned counsel for the petitioner submitted that the



arrest of the petitioner in connection with the aforesaid Katihar Town P.S. Case No. 16 of 2008 was under mistake of fact. As the matter of fact, another Sunil Kumar has been made accused in the aforesaid case, but due to mistaken identity the petitioner was apprehended and forwarded before the Magistrate, who remanded him to judicial custody.

On query as to whether the investigation has been completed, learned counsel for the petitioner expressed that for the present he has no instruction in this regard.

It would appear from the materials on record that though the case is of 2008, the petitioner was apprehended on 22.07.2017 at about 4:45 p.m. and was produced on the next day i.e. on 23.07.2017 before the court of Chief Judicial Magistrate, Katihar. Looking at the forwarding report submitted by the police, the learned Chief Judicial Magistrate remanded him to judicial custody. Subsequently, he was granted bail by the learned District & Sessions Judge, Katihar vide order dated 29.07.2017.

In absence of any order of the court that the petitioner was arrested due to mistaken identity as also in absence of any final report against him, it would not be possible for this Court to arrive at the conclusion that the petitioner was illegally taken



into custody. The defence of the petitioner that he has been falsely implicated in this case cannot be a ground for awarding compensation. Save and accept the defence taken by the petitioner, no material has been brought to the notice of the Court on the basis of which it can be said that his arrest was illegal.

In that view of the matter, I see no merit in the instant application. It is, accordingly, dismissed.

(Ashwani Kumar Singh, J)

pradeep/sneha

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