

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.951 of 2019

Arising Out of PS. Case No.-689 Year-2013 Thana- SASARAM MUFFSIL District- Rohtas

Uma Shankar Rai, Son of Ram Bilash Rai, Resident of Village - Chowkiya,
P.S.- Krishna Braham, District- Buxar

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna Bihar
2. D.G. of Police, Bihar, Patna
3. I.G. Patna Zone, Patna
4. D.I.G., Shahabad Range Dehri on Sone, Rohtas.
5. S.P., Rohtas

... .. Respondents

Appearance :

For the Petitioner : Mrs. Shruti Sinha, Advocate

For the Respondents-State: Mr. M. Nasrul Huda Khan

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 05-11-2019

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

2. This application under Articles 226 and 227 of
the Constitution of India has been filed by the petitioner for
issuance of a direction to get Sasaram (Muffasil) P.S. Case
No.689 of 2013 dated 27.06.2013 registered for the offences
punishable under Sections 420, 467, 480 and 376 of the Indian
Penal Code investigated by the CBI or CID or any other expert
agency or at least by an officer not below the rank of Inspector
General of Police.

3. Learned counsel appearing for the petitioner
submitted that the investigation of the case has not been done



properly by the police. According to him, the charge-sheet against the petitioner has been submitted in a mechanical manner. There was no effort on the part of the police to collect relevant materials in order to show that the charges levelled against the petitioner by the informant were false and frivolous. He has further contended that slipshod manner in which the investigation was conducted is adversely affecting the right of a fair trial of the petitioner guaranteed under Article 21 of the Constitution of India.

4. *Per contra*, learned counsel appearing for the State submitted that the application filed by the petitioner is totally misconceived. The petitioner has abused the process of law by filing frivolous applications before this Court repeatedly. The investigation in the case is over and charge-sheet has already been submitted against him showing him absconder.

5. Having heard the parties and perused the materials on record, I find that the petitioner had earlier approached this Court for grant of pre-arrest bail vide Cr. Misc. No. 37124 of 2014, which was rejected by a Bench of this Court vide order dated 14.05.2015. Thereafter, he filed another application for grant of pre-arrest bail before this Court vide Cr. Misc. No.19571 of 2016, which was disposed of as withdrawn



vide order dated 01.08.2016. Again, the petitioner filed his third application for grant of pre-arrest bail before this Court vide Cr. Misc. No.23631 of 2017, which was rejected by a Bench of this Court vide order dated 20.07.2017.

6. Against the said order dated 20.07.2017, he filed S.L.P. (Crl.) No. 8222 of 2017 before the Supreme Court, which was disposed of with observation that in case the petitioner is apprehended, the court concerned shall decide his application, if moved under Section 439 of the Code of Criminal Procedure.

7. Thereafter, the petitioner filed Cr.W.J.C. No. 543 of 2016 before this Court under Articles 226 and 227 of the Constitution of India in which prayer was made for directing the authorities to complete the investigation of Sasaram (Muffasil) P.S. Case No.689 of 2013.

8. The said application was disposed of by the then Acting Chief Justice directing the Superintendent of Police, Rohtas to complete the investigation of Sasaram (Muffasil) P.S. Case No.689 of 2013 expeditiously, preferably within a period of six months, ensuring proper, fair and effective investigation.

9. Once again, the petitioner filed another criminal writ petition vide Cr.W.J.C. No.206 of 2016 under



Articles 226 and 227 of the Constitution of India in which a prayer was made to direct the respondents to hold inquiry in Sasaram (Muffasil) P.S. Case No.689 of 2013 through CID or any other expert agency.

10. The said application was dismissed vide order dated 29.03.2016 passed by a Bench of this Court.

11. As far as the investigation of the case is concerned, it would be evident from the record that after completing the investigation of the case, the investigating officer has already submitted charge-sheet under Sections 420, 480 and 376 read with 34 of the Indian Penal Code finding the allegations made against the petitioner to be true on 03.12.2016.

12. On perusal of the charge-sheet, it would appear that the same has been submitted showing the petitioner as an absconder.

13. On inquiry, learned counsel for the petitioner submitted that till date the petitioner has not surrendered before the court in connection with the present case.

14. The facts noted above are sufficient to show that the petitioner, who is an Assistant Sub-Inspector of Police (under suspension) has neither any respect for law nor any fear of law. Being in a disciplined police force, he is absconding for



the last several years. Not only this, he has filed repeated applications for grant of pre-arrest bail before this Court and also once before the Apex Court and failed in all his attempts. Thereafter, he has filed repeated application for change of investigating agency. It would be important to note that such applications are being filed even after several years of filing of the charge-sheet.

15. It is well settled principle of law that an investigation into a cognizable offence is the statutory right of police. There is no material to doubt the bona fide of the investigation conducted into the case in which the allegation against the petitioner has been found true *inter alia* under Section 376 of the penal code. It is also well settled principle of law that an accused in a criminal case can not choose the investigating agency of his choice.

16. Regard being had to the totality of the facts and circumstances, the application is dismissed with cost of Rs.5,000/-.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.11.2019
Transmission Date	08.11.2019

