

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1669 of 2019

Arising out of PS. Case No.-150 Year-2000 Thana- MALSALAMI District- Patna

SHYAM BABU YADAV @ SHYAM BABU GOPE, Male, aged about 45 years, Son of Lal Mohan Rai @ Lal Mohan Gope, Resident of Muhalla - Kila Road, P.S.- Chowk, Distt - Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE PRINCIPAL SECRETARY DEPTT. OF HOME GOVT. OF BIHAR, PATNA
2. The Director, Prosecution, Govt of Bihar, Patna.
3. The I.G. Prison, Govt of Bihar, Patna
4. The District Magistrate, Patna.
5. The Senior Superintendent of Police, Patna
6. The Superintendent, Central Jail, Beur, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar, Advocate
For the Respondent/s : Mr. Prabhu Narayan Sharma, A.C. to A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 29-11-2019 Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner has prayed for the following reliefs:

“(A) For issuance of a writ in the nature of ‘Habeas Corpus’ or any other appropriate writ/order/direction to release the petitioner considering the fact that out of twenty five cases in which petitioner was made an accused, acquitted in eighteen cases and on bail in five cases but he is rotting in custody for the two



cases i.e. Malsalami P.S. Case No. 150/2000 and S.Tr. No. 955/19 which is pending in the court of learned Addl. District Judge-III, Patna in which produced before the court on 20-09-2010 and 17-04-2010 respectively and after that there is no progress in the aforesaid case.

(B) A writ in the nature of 'Mandamus' or any other appropriate writ/order/direction commanding the respondents to the following:-

(i) To take steps in early disposal of Malsalami P.S. Case No. 150/2000 and S.Tr. No. 935/94 pending in the court of learned Addl. District Judge-III, Patna.”

Shri Prabhu Narayan Sharma, learned counsel for the State has placed on record photo copy of the instructions received from the Superintendent, Adarsh Central Jail, Beur.

Evidently the statement made by the learned counsel recorded in our order dated 28.11.2019 is false, inasmuch as many more cases are pending against the accused and his incarceration is in accordance with law.

Learned counsel for the petitioner clarifies that such statement was made on the basis of instructions imparted by the petitioner.

We only caution the counsel, for he owes a duty to the Court first and then to the client. He ought to have been more careful in obtaining instructions, complete in all respect.



Noticeably, against the bail applicant, 36 cases were registered and he stands acquitted only in fifteen cases. There are at least three cases in which there is no order of his release and in six cases, custody warrants stand issued.

At this stage, learned counsel for the petitioner seeks permission to withdraw the present petition.

Permission granted.

The petition stands dismissed as withdrawn with the caution aforesaid.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

P.K.P./-

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