

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 354 of 2019

- Sachin Kurre S/o Hajari Lal Aged About 24 Years Caste Satnami, R/o Satnamipara, Danitola, Dhamtari, District Dhamtari Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home (Police) Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Director General of Police, Police Headquarter, Raipur, Chhattisgarh
3. The Superintendent Of Police Dhamtari, District Dhamtari Chhattisgarh
4. The Jail Superintendent Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Bharat Rajput, Advocate.
For State/respondents	:	Mr. Avinash Kumar Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-07-2019

Heard.

1. This petition has been brought praying for issuance of an appropriate writ.
2. Learned counsel for the petitioner submits that this petitioner was tried in S.T. No.06/2013 and convicted. In the appeal filed bearing Cr.A. No. 323/2014, the sentence imposed upon petitioner has been reduced to period of custody already undergone by him in jail vide judgment dated 03.01.2017.
3. The appellant was tried in another Special Case No.07/2013, in which he was convicted and sentenced, against which the appeal bearing

Cr.A. No. 324/2014 has been dismissed by this Court vide Judgment dated 15.11.2018. It is further submitted that as there is no order for concurrent running of sentence in both the cases and therefore, despite the completion of sentence of the petitioner, he is languishing in jail. Therefore, appropriate direction may be issued.

4. Learned counsel for the State opposes the petition and submits that according to Section 427 of Cr.P.C., it is a rule that the petitioner shall have to undergo the sentence imposed upon him in first case and only thereafter, the sentence in the second case shall initiate.
5. Considered on the submissions made by both the parties and perused all the documents filed along with the petition.
6. Section 427(1) of Cr.P.C. reads as under:-

“Section- 427. Sentence on offender already sentenced for another offence. – (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.”

7. As it is a clear direction in Section 427(1) of Cr.P.C. that the Court is empowered to direct that the subsequent sentence shall run concurrently with the previous sentence and then the petitioner has

failed to make such prayer before the Court below where he was tried and convicted and also he has failed to make any statement in this respect in the appeals filed by him. Therefore, under these circumstances, I am of this opinion that as the statute provides remedy to the petitioner, which he has failed to avail, therefore, the relief can be given to this petitioner. Hence, the petition is disposed off with following direction:-

(a) It is directed that the conviction and sentence imposed upon the petitioner in Special Criminal Case No. 06/2013 vide judgment dated 22.02.2014 which has been modified by the appellate Court in Cr.A. No. 323/2014 vide judgment dated 03.01.2017 and the conviction and sentence imposed upon the appellant in Special Criminal Case No.07/2013 vide judgment 22.02.2014, which has been sustained in the Criminal Appeal No. 324/2013 vide judgment dated 15.11.2018 by this Court shall run concurrently.

8. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge