

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.322 of 2022

Arising Out of PS. Case No.-245 Year-2020 Thana- KATORIYA District- Banka

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BHOLU MAHTO @ BHOLU MAHATO SON OF GANDHI MAHATO
RESIDENT OF VILLAGE- KUIYA BASTI, P.O.- AAMTAL, P.S.- TISRA,
DISTRICT- DHANBAD (JHARKHAND)

... .. Petitioner

Versus

1. THE STATE OF BIHAR, THROUGH THE PRINCIPAL SECRETARY, OF
THE DEPT. OF HOME, GOVT. OF BIHAR, PATNA BIHAR
2. THE PRINCIPAL SECRETARY OF THE DEPARTMENT OF HOME,
GOVT. OF BIHAR, PATNA BIHAR
3. THE INSPECTOR GENERAL OF PRISONS AND CORRECTIONAL
SERVICES, BIHAR, PATNA BIHAR
4. THE JAIL SUPERINTENDENT OF THE DISTRICT JAIL, BANKA
BIHAR

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Nawal Kishor Singh, Advocate
For the Respondent/s : Mr. Lalit Kishore (A.G.)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

and

HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

5 08-08-2022 This writ application has been filed seeking
following reliefs:-

“That this is an application for issuance
of appropriate writ in the nature of Habeas
Corpus for release of the petitioner forthwith who
has been illegally detained in the District Jail
Banka since 02.11.2021 and for a direction for
payment of adequate compensation to the



petitioner for illegal detention and as a consequence the detention period since 02.11.2021 be treated as period of custody in connection with Katoriya P.S. Case No. 245 of 2020, Special Excise case No. 686 of 2020 pending in the Court of ADJ-V, Banka.”

Earlier, when the matter was taken up on 25.07.2022, noticing the statement made in the counter affidavit filed on behalf of the State of Bihar to the effect that the petitioner had since been produced before the Court in Bhopal in the light of production warrant issued by the said Court, it was observed that the prayer for issuance of writ in the nature of *habeas corpus* has become infructuous.

Learned counsel appearing on behalf of the petitioner has, however, pressed his claim for compensation on the ground that he was unnecessarily detained in District jail, Banka, since 02.11.2021, despite he having been released on bail in connection with Katoriya P.S. Case No. 245 of 2020, registered for the offences punishable under Section 30(a) and 56(d) of Bihar Prohibition and Excise Act, 2016. The release order in connection with the said Katoriya P.S. Case No. 245 of 2020 upon grant of bail was issued on 02.11.2021.

In the counter affidavit filed on behalf of the State, it



is stated that a production warrant was issued to the Superintendent, District Jail, Banka, for production of the petitioner in connection with Thana Crime Branch, Bhopal, criminal case no. 2 of 2019, registered for the offences punishable under Sections 420, 120(B) of the Indian Penal Code. It is stated that in the light of said production warrant, the petitioner was not released from jail, though he was released in connection with Katoriya P.S. Case No. 245 of 2020 after grant of bail.

In paragraph 10 of the counter affidavit, following statement has been made:-

“That the Superintendent, District Jail, Banka has requested S.P., Banka vide letter no. 2811 dated 06.11.2021, 2880 dated 16.11.2021, 3003 dated 01.12.2021, 3127 dated 13.12.2021, 110 dated 09.01.2022, 273 dated 26.01.2022, 397 dated 07.02.2022, 559 dated 22.02.2022, 882 dated 22.03.2022, 1119 dated 11.04.2022 and 1424 dated 10.05.2022 to provide an escort guard so that the petitioner may be produced before the learned Court of Sri Ajay Pratap Singh, Judicial Magistrate, 1st, Bhopal.”

After filing of the present writ application, the Superintendent of Police, Banka, provided escort guard on



13.05.2022 and the petitioner was sent on 04.06.2022 for his production before the Court at Bhopal.

The counter affidavit does not lay any valid justification for not ensuring immediate production of the petitioner before the Court at Bhopal.

In the facts and circumstances of the case, we direct that let a sum of Rs. 30,000 (Thirty Thousand) be paid to the petitioner by way of compensation for aforesaid patent inaction on the part of the respondents. The said amount must be paid by the State within two months from today.

This writ application stands disposed of with the aforesaid direction and observation.

(Chakradhari Sharan Singh, J)

(Khatim Reza, J)

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