

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.695 of 2022

Arising Out of PS. Case No.-164 Year-2022 Thana- RAXAUL District- East Champaran

1. RODUGIN ALEXEY Son of Anatoliy Resident of Village - Nakhimova 15, Mposad, Russia.(Passport No. 761463050)
2. Zherdev Ilia Son of Vladimir Resident of Village - 38 Keramzavoda St 390007 Ryazan, Russia. (Passport No. 662612041)
3. Balashova Anna D/o Vladimir Anatolievich Resident of Village - Moscow Gerove Panfilovcev 16-2-60, Russia. (Passport No. 753913418)

... .. Petitioners

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Superintendent of Police, East Champaran.
3. The Deputy Superintendent of Police, Raxaul, East Champaran, Bihar
4. The Officer in Charge, P.S.- Raxaul (Haraiya OP), Dist.- East Champaran, Bihar.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. R.P. Luthra, Advocate Mr. Rajesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC-8 Mr. Sanjay Kumar, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 27-07-2022 On the request of the Superintendent of Police, East Champaran, in presence of Sri Sheo Shankar Prasad, learned SC 8 with the consent of learned counsel for the parties, let this matter be taken up at 4:30 P.M. in the Chambers.

Heard Mr. R.P. Luthra, learned counsel representing the petitioners assisted by Mr. Rajesh Kumar Mishra, learned Advocate on Record, Mr. Sheo Shankar Prasad, learned SC-8 assisted by Mr. Sanjay Kumar, learned AC to SC-8 for the State.

The Superintendent of Police and the Assistant Superintendent of Police, East Champaran, Motihari are also present



in person.

In this case, the petitioners are seeking a writ in the nature of writ of Certiorari to quash and cancel the order dated 25.05.2022 passed by the learned Special Judge, NDPS Act, East Champaran, Motihari whereby and whereunder the judicial custody of the accused-petitioners has been extended and they were remanded to be produced on 06.06.2022 awaiting submission of the final report of the investigation.

The petitioners also prayed for providing them the CCTV footage of Raxaul railway station and Shyam International Hotel and to preserve the CCTV footage of the hotel, railway station and other places for the period from 30.03.2022 till 02.04.2022.

While hearing this application, this Court having taken note of the submissions of learned counsel for the petitioners, passed the order dated 29.06.2022 calling upon the Superintendent of Police, East Champaran, Motihari to file an affidavit as to whether he has taken action in accordance with law to preserve and collect the electronic evidence as mentioned after receipt of the petition from the court of learned Special Judge, East Champaran, Motihari in NDPS Case No. 26 of 2022.

On 07.07.2022, this Court was informed that a chargesheet has also been filed by the Investigating Officer and the CCTV footage obtained by the Investigating Agency has been sent to the FSL. Similar was the position indicated with respect to the seized



articles. This Court was surprised to know that the chargesheet was filed even as the FSL report of the CCTV footage and the seized articles were still not obtained. On that date, this Court recorded the statement of the learned counsel for the State saying that even though the chargesheet has been filed the investigation is still going on.

On 13.07.2022, the Superintendent of Police, East Champaran, Motihari was personally present with the I. O. of the case. This Court was informed that the FSL report with respect to the Hard Disk of the CCTV Footage has not been obtained. The Court noticed that the Investigating Officer of the case had not proceeded in proper direction and had not placed the entire facts before the Superintendent of Police, therefore, the Investigating Officer was required to be changed forthwith.

Pursuant to the aforesaid order, now the investigation has been handed over to Mr. Chandra Prakash, an IPS rank officer who has joined as A.S.P. in the district.

Today, this Court has been informed that the CCTV Footage of the Hotel and the Police Station of 30.03.2022 till 02.04.2022 have been obtained by the Investigating Officer with a certificate in terms of Section 65B of the Indian Evidence Act. He has further informed this Court that though a letter was written to the Railways to provide the CCTV Footage of the relevant dates but the Railways have informed that they are unable to provide the Footage of those dates because of efflux of time the same is not available in storage



available with them. The registers etc. of the hotel have been seized.

The Superintendent of Police as well as the Assistant Superintendent of Police, East Champaran have jointly assured this Court that they are analyzing the CCTV Footage and the other evidences in course of further investigation and in the meantime, they have received the FSL Report which confirms that the seized articles were found to contain 'Charas'.

Mr. Luthra, learned counsel for the petitioners submits that so far as his prayers with respect to the collection of the evidences in form of CCTV Footage of the hotel and the police station are concerned, those have now been collected by the Investigating Officer but the CCTV Footage of the Railway station could not be collected because of the laxity shown on the part of the earlier I. O. His submission is that whatever be the analysis of the CCTV Footage and other materials including the CDR of all concerned available with the I. O. the same must be brought before the learned court below in course of hearing of the bail petition and he would be satisfied with such steps of the I. O.

Learned counsel for the State submits that it is the bounden duty of the I.O. to assist the court in rendering justice, therefore, there is no reason as to why the I.O. will not place all the materials before the competent court as and when required.

In the given facts and circumstances of the case, this Court finds that now nothing remains to proceed with the present writ



application. It is expected that the Investigating officer shall duly analyze all the materials and would assist the court in rendering justice.

Since the bail application of the petitioner is still pending, there is no reason for this Court to interfere with the remand order dated 25.05.2022.

This Writ application stands disposed of accordingly with the aforesaid observations.

(Rajeev Ranjan Prasad, J.)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

