

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.669 of 2022

Arising Out of PS. Case No.-104 Year-2022 Thana- BASOPATTI District- Madhubani

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RAM NARESH THAKUR, S/o Maheshwar Thakur, R/o village and P.O.-
Bhaiyapati, Belauna, District- Madhubani

... .. Petitioner

Versus

1. The State of Bihar, through Director General of Police, Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Patna Division
4. The Superintendent of Police, Sitamarhi
5. The Sub-Divisional Police Officer, Jainagar Sub Division
6. The Officer-in-Charge, Basopatti Police Station, Sitamarhi
7. Arvind Kumar, S/o R.K. Bhagat, R/o- Purandaha Lal Kothi, P.S. and District- Deogarh, State- Jharkhand
8. The Investigating Officer, Basopatti Police Station, Sitamarhi Bihar
9. Himanshu Kumar, S/o Shree Ram Chandra Thakur, R/o village- Siriyapur, P.S.- Basopati, District- Madhubani

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Alok Ranjan, Advocate
For the Respondent/s : Mr.Saroj Kumar Sharma, A.C. to A.A.G.-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-06-2022 Heard Mr. Alok Ranjan, learned counsel for the

petitioner and Mr. Saroj Kumar Sharma, learned A.C. to A.A.G.-

3 for the State-respondents.

Petitioner in this case is aggrieved and dissatisfied
with the order dated 21.05.2022 passed in Basopatti P.S. Case
No. 104 of 2022 by the learned jurisdictional Magistrate
whereby and whereunder within five days of the lodging of the



F.I.R., the learned Magistrate has issued non bailable warrant as well as proclamation under Section 82 Cr.P.C. against the petitioner.

In course of hearing, learned counsel submits that even though the petitioner is named in the F.I.R., he has been seeking his remedy of anticipatory bail before the District Judge, Madhubani in A.B.P. No. 877 of 2022 in which the learned Sessions Judge has called for the case diary and the said matter is fixed for consideration on 16th of June,2022.

Learned counsel submits that on a bare perusal of the impugned order, it would appear that the learned jurisdictional Magistrate has passed the impugned order in a routine and mechanical manner and by the same stroke of pen NBW as well as proclamation under Section 82 Cr.P.C. has been issued. In the process learned Magistrate has not appreciated the mandatory requirement of Section 82 Cr.P.C. In this connection, learned counsel relies upon a judgment of this Court in the case of **Jitendra Singh & Anr. Vs. The State of Bihar & Ors.** reported in **2020(1) PLJR 945.**

Mr. Saroj Kumar Sharma, learned counsel for the State has opposed the application. It is submitted that petitioner is named in the F.I.R. and in this case the allegations are serious



in nature. It is alleged that the petitioner and seven other accused persons had been involved in firing upon the informant and others who were injured.

Learned counsel, however, accepts that simultaneous issuance of NBW and proclamation under Section 82 Cr.P.C. was not required. It is submitted that so far as the latter part of the impugned order is concerned, this Court may for the time being interfered with the same but the first part of the order whereunder NBW has been issued against the petitioner be allowed to remain intact.

Having regard to the submissions noted hereinabove and keeping in view the mandatory nature of the requirement laid down under Section 82 Cr.P.C., this Court is of the considered opinion that the learned jurisdictional Magistrate has acted in haste in issuing NBW as well as proclamation under Section 82 Cr.P.C. on the same day and under the same order without complying the requirement of Section 82 Cr.P.C., as a result of which the latter part of the order dated 21.05.2022 by which proclamation under Section 82 Cr.P.C. has been ordered to be issued is hereby set aside.

The first part of the order dated 21.05.2022 whereunder NBW has been issued against the petitioner shall



remain in force and it will be open for the Investigating Officer to proceed to execute the NBW against the petitioner at this stage unless otherwise ordered any other competent court of law and in case it is found that the petitioner is absconding and NBW could not be executed, then again it will be open for the I.O. to file an appropriate application before the learned court below for issuance of process under Section 82 Cr.P.C. If such application is filed by the I.O., the learned court below shall consider the same and pass an appropriate order thereon in accordance with law.

As regards the prayer of the petitioner to direct the respondent authorities to make proper investigation of Basopatti P.S. Case No. 105 of 2022, this Court directs the Superintendent of Police, Madhubani to look into the matter and take appropriate steps to supervise the said case as well within a reasonable time.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

