

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1287 of 2022

Arising Out of PS. Case No.-340 Year-2017 Thana- MINAPUR District- Muzaffarpur

Lalmuni Devi, Wife of Surendra Sahni R/V- Harivanshpur, P.S- Bhagwanpur,
Dist- Vaishali

... .. Petitioner

Versus

1. The State of Bihar through the Addl. Chief Secy., Home (Police), Govt. of Bihar, Patna
2. The Additional Chief Secretary, Home (Police), Govt. of Bihar, Patna
3. The Director General of Police, Govt. of Bihar, Patna
4. The Senior Superintendent of Police, Muzaffarpur
5. The S.H.O., Meenapur P.S., Dist- Muzaffarpur
6. The I.O. of Meenapur P.S. Case No. 340/17, P.S.- Meenapur, Dist- Muzaffarpur

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Deepak Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 14-12-2022 Heard learned counsel for the petitioner and Mr. Deepak Kumar, learned AC to GP-4 for the State.

The petitioner in the present case is seeking the following reliefs:-

“ (i) For issuance of a writ in the nature of mandamus for directing the release of the petitioner forthwith who is in custody in connection with Meenapur P.S. Case No. 340/17 registered for the offences u/s 121/121A/120B of the I.P.C., section 25(1-B)/25 (1-AA)/25 (1-AAA), 26, 35 of the Arms Act, 3/4/5 of Explosive Substance Act and section 16, 18, 18(A), 18(B), 19 & 20 of the U.A.P. Act as till date no sanction has been accorded by the competent authority since the life and liberty of an individual cannot be curtailed and matter cannot be kept pending for the latches of the official respondent.

(ii) For holding that the present is a fit case



wherein Article 21 of the Constitution of India comes into play and also a fit case where the concerned authorities are required to be proceeded as they have failed to discharged their official duty.

(iii) To further that if during pendency of the writ application sanction of prosecution is accorded then to call for the same and quash the same if it is found that the sanction has been accorded mechanically to frustrate the present writ application.

(iv) For further that if this Hon'ble Court finds that the sanction is in accordance with law then to direct the concerned court below to expeditiously make endeavour so that the petitioner can be released from custody in view of the order dated 10.12.2020 passed in Cr. Misc. No. 27552/2020.

(v) For any other relief/reliefs to which the petitioner may be found entitled in the fact and circumstance of the case.”

At this point of time, learned counsel for the petitioner has informed that the petitioner moved for bail in Cr. Misc. No. 27552 of 2020 in which vide order dated 10.12.2020, the petitioner was granted regular bail after framing of charge. A copy of the order dated as contained in Annexure ‘2’ is available on the record. A relevant part of which reads as under:-

“Considering the aforesaid facts and circumstances of the case, **after the framing of the charge**, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each in connection with Minapur P.S. Case No. 340 of 2017 to the satisfaction of learned Sessions Judge-cum-Special Judge, Muzaffarpur.”

Learned counsel for the petitioner submits that the



petitioner has approached this Court for modification of the said order but that was refused vide Annexure '3' to the writ application.

At this stage, the grievance of the petitioner is that the charges are not being framed in absence of receipt of the consideration of the issue of sanction by the competent authority under the Unlawful Activities (Prevention) Act.

Learned counsel for the State submits that in such circumstance, an appropriate direction may be issued to the competent authority to consider the issue of sanction and pass an appropriate order thereon within a reasonable time.

In the given facts and circumstances, this writ application is being disposed of with a direction to the Additional Chief Secretary, Home (Police) and other respondents to look into the grievance of the petitioner and in case, it is found that the issue of sanction is pending consideration, the same must be taken up and an appropriate decision be taken thereon within a period of two months from the date of receipt/communication of a copy of this order.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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