

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 33928 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

Manik Chandra Roy, son of Late Manindra Nath Roy, resident of Kismat Karela-2, Dinhatta, P.O.-Tarhi, P.S.-Dinhatta, District-Kuch Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Xxxx

For the Opposite Party/s : Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

12 03-11-2022 On 23.07.2015, the matter was taken up by a Coordinate Bench of this Court *suo motu* on the representation dated 05.04.2015 submitted by Sri Manik Chandra Roy. It appeared from the representation dated 05.04.2015 that the said representationist was in Central Jail, Purnea for past eight years and his wife Mala Roy was also lodged in Mahila Mandal Kara, Bhagalpur with reference to the same offence.

Having considered the period of custody of the petitioner, the Coordinate Bench observed that there could not be any justification for keeping the petitioner as under-trial prisoner for eight years and held it to be clear violation of fundamental human rights apart from violative of directions of the Supreme Court issued from time to time. The petitioner and his wife were directed to be released on bail by order dated 23.07.2015 passed by the Coordinate Bench headed by the then



Hon'ble Chief Justice. However, subsequently the fact came to the notice of the Court that the persons, namely Manik Chandra Roy and his wife Mala Roy, have been convicted for the offence punishable under Section 20B of the N.D.P.S. Act and sentenced to undergo imprisonment for 12 years and fine of Rs. 2,00,000/-, in Kishanganj (Rail) P.S. Case No. 40 of 2006 (G.R. No. 157 of 2006), by the Court of learned Special Judge-cum-Sessions Judge, Katihar, through judgment dated 04.02.2011. The convicts preferred an appeal before this Court.

The Coordinate Bench recalled the said order granting bail to the above-named two persons. However, the Coordinate Bench, holding that detention of persons as under-trials for such a long period is clear violation of fundamental rights to freedom and human rights, directed that a Cell comprising of the Registrar (Vigilance), Patna High Court, Member Secretary, Legal Services Authority and I.G. (Prisons) shall monitor the release of the under-trials, who are in jail for more than five years. The Registrar (Vigilance), Patna High Court was ordered to act as convener. Further directions have been given to the courts concerned for release of the under-trial prisoners.

Pursuant to the constitution of the aforesaid Cell, the Registrar (Vigilance) was directed vide order dated 12.07.2022



to submit a report towards compliance of directions issued by the Coordinate Bench in its order dated 27.07.2015.

In compliance thereof, a report dated 22.07.2022 has been submitted by the learned Registrar (Vigilance) I/C wherein he submitted that fresh data has been sought for from the district courts in Bihar and as and when the same was received, the same would be placed on record before this Court, if so ordered. Thereafter, this Court ordered to compile the data and submit a fresh up-to-date report within eight weeks for the purpose of assessing the condition of under-trial prisoners in the State of Bihar. Pursuant thereof, a report has been submitted by the learned Registrar (Vigilance) I/c. Today, the matter has come for consideration of the report.

Having perused the report, I am of the view that constant monitoring of the under-trial prisoners in the district courts of Bihar is required to be done by various stakeholders on continuous basis. This Court took up the matter for consideration of grant of bail to the above-named two persons, namely Manik Chandra Roy and Mala Roy, and under its limited jurisdiction would not like to venture further in this matter.

This Court is also alive to the endeavour of the



Supreme Court of India for decongesting the prisons by releasing under-trial prisoners. In Suo Motu Writ Petition (c) No.1 of 2020 (Contagion of Covid 19 Virus in Prisons), on 23.03.2020, the Supreme Court passed the following order :

“We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the



Committee may consider appropriate.

The Undertrial Review Committee contemplated by this Court In re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the concerned authority as per the said judgment.

The High Powered Committee shall take into account the directions contained in para 11 in Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273”.

Thus, there exists two Committees, namely the High Powered Committee and the Under-trial Review Committee to monitor the release of under-trial prisoners. Since two Committees are already working towards release of eligible under-trial prisoners, I do not think any useful purpose would be served in continuing with the present matter.

The learned Registrar (Vigilance) I/c is directed to act in coordination with the aforementioned two Committees and share its feedback with these two Committees which shall take the call for release of the under-trials in terms of their mandate.

With the aforesaid observation and directions, this application stands disposed of.

(Arun Kumar Jha, J)

V.K.Pandey/-

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