

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1183 of 2022

Arising Out of PS. Case No.- Year-0 Thana- District- Begusarai

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1. MD. SHAH ALAM S/O LATE MD. SAKUR Resident of village- Saidpur, P.S.- Matihani, District- Begusarai
 2. MD. MASI ALAM S/O LATE MD. SAKUR Resident of village- Saidpur, P.S.- Matihani, District- Begusarai
 3. MD. SABIR S/O LATE MD. SAKUR Resident of village- Saidpur, P.S.- Matihani, District- Begusarai ... Petitioners

Versus

1. THE STATE OF BIHAR THROUGH ITS SECRETARY, BIHAR HOME DEPARTMENT PATNA
 2. THE DIRECTOR GENERAL OF POLICE, BIHAR AT PATNA
 3. THE SUPERINTENDENT OF POLICE, BEGUSARAI ... Respondents
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Appearance :

For the Petitioners : Mr. Binod Kumar, Adv.

For the Respondents : Mr. Md. Nasrul Hoda Khan, SC I

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 12-04-2023 Counsel for the petitioners is directed to remove the defect(s) within two weeks.

Heard learned counsel for the petitioners and the State.

The present application has been filed for giving direction to respondents for remanding/producing the petitioners in Matihani P.S. Case No. 46 of 2011, Matihani P.S. Case No. 114 of 2006, Begusarai (Muffasil) P.S. Case No. 313 of 2012 and Mathihani P.S. Case No. 62 of 2013 as the petitioners are at present in judicial custody before the Presidency Jail, Kolkata-27.



Counsel for the petitioner submits that Section 267 of the Criminal Procedure Code which is present in Chapter 22 states about the provisions relating to attendance of persons confined or detained in prison. Counsel for the petitioner put emphasis on Sections 267 and 268 of the Criminal Procedure Code on the basis of which he submits that a direction may be issued to the jail authorities to produce the petitioners in the cases pending at Begusarai.

From the pleadings, it transpires that by one order the petitioners want compliance in five different cases as well the petitioners have not made party to the Jail Superintendent, Presidency Jail, Kolkata-27, where petitioners are in custody. Not only that Section 270 of the Criminal Procedure Code is also there which states as follows :

“270. Prisoner to be brought to Court in custody.—

Subject to the provisions of section 269, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 267 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time



mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained.”

It transpires to the Court that the petitioners ought to move before the Calcutta jurisdiction as the present petitioners are in custody and facing sessions trial in Calcutta and by the order of the Sessions Court they are in custody and, therefore, this Court feels that this writ petition is not proper and, therefore, **dismissed**.

(Dr. Anshuman, J)

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