

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1926 of 2023

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

JAY KUMAR YADAV LATE JAGDEESH YADAV RESIDENT OF
VILLAGE- BAIJNATHPUR, P.S- SOUR BAZAR, DISTT.- SAHARSA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY, GOVT. OF BIHAR, PATNA. BIHAR
2. THE UNDER SECRETARY, HOME (POLICE) DEPARTMENT, GOVT. OF BIHAR, PATNA. BIHAR
3. THE DIRECTOR GENERAL OF POLICE, BIHAR, PATNA. BIHAR
4. THE D.I.G., KOSHI RANGE, SAHARSA BIHAR
5. THE DISTRICT MAGISTRATE, SAHARSA. BIHAR
6. THE SUPERINTENDENT OF POLICE, SAHARSA BIHAR
7. THE DEPUTY SUPERINTENDENT OF POLICE, SAHARSA. BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rashmi Jha, Advocate
For the Respondent/s	:	Mr.Kumari Amrita, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 18-12-2023 In the instant petition, petitioner has prayed for the
following relief(s):-

*“That the present
application is being filed for issuance
of an appropriate writ/order/direction,
particularly in the nature of writ of
certiorari for quashing the order of
externment dated 26.08.2023 passed
by the District Magistrate, Saharsa in
BCCA Case No. 30/2023 under section
3(3) of the Control of Crime Act, 1981,*



whereby the petitioner has been directed to remove himself outside the Sour Bazar (Bajjnathpur P.S.), District: Saharsa and will be present physically at Banma O.P., Saharsa daily and mark his attendance there between 9 A.M. to 11 A.M. and 5 P.M. to 8 P.M.”

2. Learned counsel for the petitioner submitted that the petitioner who is aged about 73 years was subjected to registration of criminal cases, i.e., (i) Saur Bazar (Bajjnathpur P.S.) Case No. 204/2016 dated 31.05.2016 under Section 25(1-b)a, 26, 35 of Arms Act, Charge Sheet No. 248/16 dated 27.07.2016; (ii) Saur Bazar (Bajjnathpur P.S.) Case No. 206/2016 dated 31.05.216 under Section 414 of I.P.C, Charge Sheet No. 322/16 dated 20.09.2016.

3. Taking note of the aforementioned cases, the District Magistrate, Saharsa proceed to pass order while invoking Section 3(3) of Bihar Control of Crimes Act, 1981 on 26.08.2023. District Magistrate, Saharsa proceeded to invoke the aforementioned order and petitioner had been shifted from Saur Bazar P.S. to Bangaon P.S.

4. It is further submitted that merely, stating that petitioner is an anti-social element. Further, it is submitted that other than the aforementioned cases, the petitioner is not facing any other criminal case. Therefore, there is an arbitrary decision



on the part of the District Magistrate, Saharsa in passing the impugned order dated 26.08.2023 and it is liable to be set aside.

5. *Per contra*, learned counsel for the respondents resisted the aforementioned contention and submitted that in the counter affidavit along with the certain documents have been placed on record which establishes that Section 3(3) of Bihar Control of Crimes Act, 1981, is warranted. Therefore, there is no infirmity in the order of the District Magistrate, Saharsa dated 26.08.2023.

6. Heard the learned counsel for the respective parties.

7. Having regard to the age of the petitioner at 73 invoking Section 3(3) of Bihar Control of Crimes Act, 1981 may not be warranted in the light of the fact that he is facing only two criminal cases which are cited (*supra*) and they relates back to the year 2016. The apprehension of the District Magistrate, Saharsa that the petitioner is likely to commit certain offences in the Saur Bazar, after eight years from the date of alleged cases which are cited (*supra*). No reasons have been assigned as to why in the year 2023, District Magistrate, Saharsa proceed to invoke Section 3(3) of Bihar Control of Crimes Act, 1981. We find that the petitioner has made out a *prima facie* case to the extent that the impugned order is



arbitrary and illegal.

8. Accordingly, Annexure-1 dated 26.08.2023 stands set aside and the present Criminal Writ Jurisdiction Case No.1926 of 2023 stands allowed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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