

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1686 of 2023

Arising Out of PS. Case No.-266 Year-2021 Thana- BARHIYA District- Lakhisarai

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RAUSHAN KUMAR @ ROSHAN SINGH

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF
FINANCE, DEP. OF REVENUE

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pranav Kumar Jha, Advocate
For the Union of India	:	Mr.K.N.Singh(A.S.G.)
		Mr.Anshuman Singh, Advocate
For Respondent No. 4 to 9 :		Mr.P.K.Shahi, Advocate General
		Mr.Prabhu Narayan Sharma, AC to AG

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

ORAL ORDER

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

4 11-12-2023 On 07.12.2023 matter was reserved for judgment.

While dictating order we have noticed that grievance of the petitioner should have been restricted to order of detention and not releasing. For the reasons that insofar as releasing is concerned is a subject matter of various cases under NDPS Act and it is pending consideration before various Special Courts.

2. We have also perused the records and wherein petitioner has been denied bail. Further, we are under the impression that grievance of the petitioner would fall under Habeas Corpus having regard to the language employed by the



petitioner in the prayer or the petition. On the other hand, it is relating to only questioning the detention order under Section 3(1) of the Prevention of Illicit Traffic in Narcotics Drugs & Psychotropic Substance Act, 1988 (in short 'PITNDPS Act, 1988'). Therefore, it is not a case which fall under Habeas Corpus thereafter, we have perused the Group No. 53. Group No. 53 is consisting of Habeas Corpus, BCC Act and others. The present case would fall under others whereas in the roster notification it is indicated only Habeas Corpus, BCC Act and 'others' has been left out. While examining what are the subject matter would fall under Group No. 53, we have noticed that Habeas Corpus, BCC Act and others. The present case would fall under the heading of others.

3. The petitioner has assailed the order dated 16.05.2023 and it relates to detention indefinitely issued by the 2nd Respondent – Joint Secretary, Ministry of Fiance, Department of Revenue, (P.I.T.N.D.P.S. Unit), Government of India, New Delhi.

4. It is necessary to take note of Section 3(1) of PITNDPS Act, 1988 and it reads as under:-

“3. Power to make orders detaining certain persons.—(1) The Central Government or a State Government, or any officer of the



Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained.”

[Underline Supplied]

5. Perusal of the impugned detention order word satisfaction is required to be examined by this Court to the extent whether Joint Secretary to the Government of India was satisfied with the material or not in the light of Hon'ble Apex Court decision in the case of **Ameena Begum vs. State of Telangana & Ors.** reported in **(2023) 9 SCC 587** (Para 31).

6. In view of the fact that impugned order dated 16.05.2023 and reasons are not assigned insofar as satisfaction, therefore, we intends to peruse the original file relating to the impugned detention order dated 16.05.2023 passed by the Joint Secretary, Government of India whether was he satisfied with the material available so as to pass detention order against the petitioner or not?

7. The concerned learned Advocate for Government



of India is hereby directed to secure the original file of detention order bearing no. F.No. U-11011/12/2023-PITNDPS on the next date of hearing.

8. Relist this matter on 12.01.2024. Copy of this order shall be made available to the panel counsel of Government of India or to the office of ASG.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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