

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2105 of 2024

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

Ram Niwas Gupta Son of Hukam Chand Resident of 6B, Ratna Jyoti, Ravi Dham Complex, Ghod Dod Road, Surat, P.S. - Umra, District - Surat, State - Gujrat

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department (Prison), Govt. of Bihar, Patna Old Secretariat, Patna
2. The Principal Secretary, Home (Prison) Department, Govt. of Bihar, Patna Old Secretariat, Patna
3. The Secretary, Home (Prison) Department, Govt. of Bihar, Patna Old Secretariat, Patna
4. The Inspector General, Prisons and Correctional Services, Govt. of Bihar, Patna Old Secretariat, Patna
5. The District Jail, Hajipur, Vaishali through the Superintendent of Jail Bihar
6. The Superintendent of Jail, District Jail, Hajipur, Vaishali Bihar
7. The District Magistrate, Vaishali Bihar
8. The Superintendent of Police, Vaishali Bihar
9. The District Magistrate, Jahanabad Bihar
10. The Superintendent of Police, Jahanabad Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar
For the Respondent/s	:	Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 21-11-2024

In the instant petition, the petitioner has prayed

for following reliefs:-

“(a). For issuance of an appropriate writ in the nature of Habeas Corpus directing the Respondents to release the petitioner forthwith from District Jail, Haipur, Vaishali by holding the detention of the petitioner to be wholly illegal as he is on Bail in all cases in which he had been remanded.

(b). For issuance of an appropriate Writ holding and declaring the continuation of the detention of the Petitioner in district Jail, Hajipur, Vaishali since 21.09.2024 on the basis of Production Warrant in connetion with Mukhdumpur P.S. Case No. 33/23 and Hajipur, complaint Case No. 3891 (C) of 2022 to be wholly illegal, without any authorization and without any justification.

(c). For issuance of any other order/orders or relief/reliefs for which the petitioner may found to be entitled in the facts and circumstances of the case.”

2. Gist of the matter is that petitioner was alleged to have involved in five criminal cases which are narrated in para five of the personal affidavit filed on behalf of the I.G. - Prison and correctional services, Government of

Bihar, Patna-cum-Secretary Home and it reads as under:-

Case Number	Date of Remand	Date of Execution of bail bound and release
Hajipur Town P.S. Case No. 05/23	30-06-2024	09-09-2024
Sadar Hajipur P.S. Case No. 229/24	22-07-2024	21-09-2024
Jandaha P.S. Case No. 15/23	09-07-2024	21-09-2024
Hajipur C1-3891/22	07-10-2024	Judicial custody
Makhdumpur P.S. Case No. 33/23, GR No. 350/23	25-10-2024	Judicial custody

3. Perusal of the aforementioned table, it is evident that in the first three cases he was released on bail on 21-09-2024. However, the same has not been given effect to by the prisons department in releasing the petitioner. Before he was released on bail on 21.09.2024, jurisdictional Magistrate issued a body warrant of the petitioner vide summon/notice dated 13.09.2024, for production of petitioner on 26.09.2024. Petitioner has the benefit of bail on 21.09.2024. Therefore, it was bounden duty of the concerned officials of the prisons department to

release the petitioner on 21.09.2024 instead of detaining him under custody for the reasons that as on 21.09.2024, petitioner's body warrant was not executed and it was required to be executed only on 26.09.2024. Prisons department should have sought necessary modification of the body warrant summon/notice dated 13.09.2024 to the extent that petitioner was granted bail in other cases on 21.09.2024. While contending that, he was no more in the custody after releasing him. However, the petitioner was illegally detained between 21.09.2024 to 07.10.2024. On 07.10.2024, he was remanded to judicial custody and so also on 25.10.2014 in the last two cases of the table. It is to be noted that the illegality could not be 'washed away or wished away' merely there is a remand on subsequent day. In the present case, petitioner was illegally under custody for about 16 days and his freedom was curtailed for the above period. Depriving an individual of his personal liberty without following the process of law amounts to illegal detention. This includes unlawful imprisonment, continuous restraint of a person at a place or restraining a person from

reaching a place. It is a violation of Article 21 of the Constitution.

4. Bail order should be furnished to the accused in prison on the same day of pronouncement and released him or her at the earliest as held by the Hon'ble Supreme Court in the case of ***[Re: To issue certain guidelines regarding inadequacies and deficiencies in criminal trials]***, reported in ***(2023) 12 SCC 688***. The prisons officials have violated fundamental rights of the petitioner and internal communication dated 25.05.2018 vide Annexure R4/G of the personal affidavit. Prima facie the prisons department have illegally detained the petitioner in the judicial custody from 21.09.2024 to 07.10.2024.

5. No doubt, the petitioner is not entitled to relief sought in the present petition in view of later development of remand. However, he is entitled to compensation for illegal detention by the prisons department for the period from 21.09.2024 to 07.10.2024. Petitioner is businessman and it is learnt that he is one of the directors of 'Dandi Salt Private Limited', Gujarat. Therefore, we proceed to pass an

order of compensation and it is quantified as Rs. 1,00,000/- (one lakh rupees).

6. Compensation of Rs. 1,00,000/- (one lakh rupees) shall be paid to the petitioner by the Prisons Department within a period of four weeks from today.

7. The I.G. Prisons and Correctional Services, Government of Bihar, Patna is stated to have initiated disciplinary proceedings against such of those officials who are involved in not releasing the petitioner and illegally detained in custody for the period from 21.09.2024 to 07.10.2024. In that regard, he is hereby requested to issue additional charge insofar as recovery of the aforementioned compensation in addition to whatever the charges framed against such of those officials. Employees Disciplinary Authority is hereby directed to adhere to the relevant disciplinary regulation or rules and complete the inquiry proceedings within a period of six months from the date of receipt of this order.

8. Writ petition stands disposed of.

9. At this stage, learned counsel for the petitioner on

instruction submitted that necessary facilities which are required to be provided to detainee in the judicial custody has not been provided to the petitioner. Detainees are entitled to access to various facilities that ensure their physical and psychological needs are met like sanitary, personal care, medical attention, legal counsel, food, accommodation, hygiene etc.,in terms of prison manual. If any of the facilities are not provided to the petitioner, in that event, I.G. Prisons is hereby directed to examine the same and in accordance with law whatever the facilities were required to be extended to detainee, the same shall be extended to the petitioner forthwith.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03-12-2024
Transmission Date	03-12-2024