IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.535 of 2022

Arising Out of PS. Case No.-189 Year-2021 Thana- KATEYA District- Gopalganj

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DHANRAJ KUMAR RAI

... ... Petitioner/s

Versus

THE STATE OF BIHAR, THROUGH HOME SECRETARY, GOVT. OF BIHAR, PATNA

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Chandra Shekhar Singh
For the CBI : Mrs. Nivedita Nirvikar, Sr. Advocate
Mr. Lalan Kumar, Advocate
For the State of Bihar : Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

37 05-07-2023 The present criminal writ application was filed by Dhanraj Kumar Rai with an assertion that his brother Raj Nath Sharma was arrested by Kateya Police under the district of Gopalganj on 07.06.2021 from his house in connection with Kateya PS case no.189 of 2021, registered for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code but was not produced before the concerned Magistrate soon after his arrest and was traceless. A counter affidavit was filed pursuant to direction issued by this Court from which it would transpire that according to the State of

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Bihar, after said Raj Nath Sharma was brought to the Kateya police station after his arrest, he managed to escape on the pretext of going for attending the nature's call. In relation to his escape from the police station, Kateya P.S. Case No. 190 of 2021 was registered on 07.06.2021. Taking into account a lackadaisical approach of the State respondents in not taking prompt action in the matter of disappearance of Raj Nath Sharma and the role of the police officials of the State police, this Court by an order dated 06.02.2023, while disposing of the writ petition, directed for investigation by the Central Bureau of Investigation into Kateya P.S. Case No. 189 of 2021 and Kateya P.S. Case no. 190 of 2021. From the order of this Court dated 06.02.2023, it is seen that the Court, taking serious view of the manner in which, according to the police, Raj Nath Sharma had escaped from the police custody and no action was being taken for locating him, directed State respondents to file an affidavit giving the details of all such persons, who, according to them, had escaped from custody of the police in the State of Bihar and were still traceless. In compliance of the said order, a supplementary counter affidavit came to be filed, sworn by the DIG, Administration (Police Headquarter), displaying alarming state of affairs. According to the said affidavit, there were 256

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accused persons who had escaped from the police custody from various places in the State of Bihar and were traceless. A list of number of persons, who, according to the police, had escaped from the police custody was brought on record by way of annexure-B to the said counter affidavit. The district wise break up of the data furnished by the State police disclosing number of persons having escaped from the police custody and were still traceless is as under:

1	Patna	68
2	Nalanda	00
3	Bhojpur	08
4	Buxar	03
5	Rohtas	04
6	Kaimur	00
7	Gaya	14
8	Aurangabad	02
9	Jahanabad	00
10	Nawada	03
11	Arwal	01
12	Muzaffarpur	50
13	Sitamadhi	07
14	Sheohar	00
15	Vaishali	01
16	Bettiah	13
17	Motihari	11
18	Bagha	00
19	Saran	06
20	Siwan	06
21	Gopalganj	08

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22	Darbhanga	04
23	Madhubani	02
24	Samastipur	02
25	Saharsa	02
26	Madhepura	03
27	Supaul	08
28	Purnea	00
29	Katihar	01
30	Kishanganj	00
31	Araria	11
32	Bhagalpur	02
33	Nawgachiya	02
34	Banka	02
35	Munger	00
36	Sheikhpura	00
37	Lakhisarai	00
38	Begusarai	02
39	Khagria	01
40	Jamui	06
41	Rail Katihar	00
42	Rail Jamalpur	01
43	Police Adhishak Railway, Patna	02
44	Rail Zila Muzaffarpur	00

It was in the said backdrop that while disposing of the criminal writ petition, this Court expressed anxiety over the alarming number of cases in which the persons, who had, according to the police escaped from police custody and were still traceless and expected that the State respondents would

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inform this Court as to what action(s) did they intend to take in respect of those cases in which the persons had escaped from custody and were traceless. Further, the State respondents were directed to file an affidavit giving the details of the proposed action in the said regard. Various affidavits and supplementary affidavits have been filed pursuant to the said order from which it transpires that in the light of the observations made by this Court, steps have been taken to apprehend those who had escaped from police custody. Recently two affidavits have been filed, one on 18.05.2023 and the other on 23.06.2023. In the supplementary counter affidavit filed on 18.05.2023, it has been stated that efforts are being taken to arrest the accused persons who had escaped from police custody and as per the report submitted by the Superintendent of Police (STF, Bihar), 38 persons out of 256 have been either arrested by the Bihar police after 26.01.2023 to 11.05.2023 or surrendered before the police. In the supplementary counter affidavit filed on 23.06.2023, latest status of the persons apprehended till 29.05.2023 has been given. It has been stated that from the period 11.05.2023 to 15.06.2023, 28 persons have been arrested by the police, one person has surrendered, 8 persons have been released on bail and 2 persons were killed in encounter(s) with the U.P. police.

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From the affidavits which have been filed on behalf of the State, it appears that some serious efforts have been made by the State police to apprehend the persons who have escaped from the police custody. The Court, however, expresses concern over the fact that the State police woke up to take steps for apprehending such persons only upon this Court's intervention and in the light of certain orders passed by this Court which they should themselves have done as part of their statutory duty.

We do not propose to pass any further order in the present matter which has already been disposed of. We, however, expect that the State police shall continue with the action initiated pursuant to this Court's observations in the order dated 06.02.2023.

(Chakradhari Sharan Singh, J)

(Nawneet Kumar Pandey, J)

Nishant/Suraj/-

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