
(2006) 10 PAT CK 0010
In the Patna High Court
Case No : Criminal W.J.C. No. 425 of 2006

Arun Yadav

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 13-10-2006

Acts Referred:

Arms Act, 1959 — Section 27
Penal Code, 1860 (IPC) — Section 307, 353, 387

Citation : (2007) 1 PLJR 715

Hon'ble Judges : Sheema Ali Khan, J; Narayan Roy, J

Bench : Division Bench

Advocate : Pankaj Kumar Sinha, for the Appellant; Lalit Kishore for the Respondent No. 1, for the Respondent

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and learned A.A.G. III for the respondents and considered the counter affidavits filed on behalf of the respondents. The petitioner challenges the order of detention passed by the District Magistrate, Begusarai under the provisions of the Bihar Crimes Control Act (hereinafter to be referred to as the "Act.")

2. It is contended by counsel for the petitioner that at the time of his detention he was already in jail custody and the authorities, therefore, were required to satisfy themselves for initiation of the proceeding in exercise of powers under the provisions of the Act. No satisfaction whatsoever has been recorded by the authorities. Besides this, it is also, submitted that the petitioner has been detained in relation to the offences committed by him in Saheb Kamal P.S. Case No. 183/04 and Saheb Kamal P.S. Case No. 83/04 dated 10.12.2004 and 6.6.2004 respectively, whereas he has been detained by virtue of the order as contained in annexure-1 dated 15.10.2005 without having the close proximity in between the date of occurrence and the date of detention. In other words, learned counsel submits that within the interval of approximately one year, the

detention order has been passed on the ground of offences committed by the petitioner in the year 2004 which is not sustainable in law. It is further submitted that the representation filed by the petitioner was not disposed of with utmost expedition which must be held to be contrary to the provisions of the Act. Lastly, it is submitted that cases which are reported against the petitioner do not involve the question of public order, rather they may be the cases of law and order and, therefore, the order of detention is liable to be set aside.

3. Learned A.A.G. III, appearing on behalf of the respondents, however, submits that the petitioner was involved in cases of extortion and also for the offences under the Arms Act and in open market he committed offences. Thus, the people of the locality were scared and a panic was created in the area, so it is a case of public order. It is further submitted that the representation filed by the petitioner was properly considered and was rejected on 26.12.2005. Thus, there was not much delay caused in disposal of the representation filed by the petitioner.

4. We have perused the order of detention and the grounds set forth in the detention order.

5. The cases reported against the petitioner are only two of the year 2004 for offences u/s 353, and 307 read with other ancillary sections of IPC and Section 27 of the Arms Act and with regard to the offences of extortion u/s 387 IPC. We do not find any specific reason assigned in the order of detention as to how the authorities were apprehensive that the petitioner in case is released on bail will indulge in further criminal activities disturbing the public tranquillity. The authorities while detaining a person must assign the specific reason for his subjective satisfaction.

6. From the counter affidavit filed on behalf of the respondents we also do not find any justification in detention of the petitioner on the grounds already set forth. More so, we also do not find close proximity in between the offences committed by the petitioner and the order of detention.

7. We have already referred above that the petitioner was apprehended almost after a year of commission of criminal offences committed by him which in our view, do not appear to be a case of public order, rather they can be said to be the question of law and order. Regard being had to the facts and circumstances of the case, we allow this application, set aside the order of detention passed against the petitioner and he is directed to be released forthwith, if not wanted in any other case.