

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42681 of 2018**

Arising Out of PS. Case No.-164 Year-2014 Thana- FATUA District- Patna

Prem Sahani Son of Kapil muni Sahani, resident of Kanti Factory Road, Mahatma Gandhi Nagar, P.S. Agam Kuan, District Patna.

... ... Petitioner/s

Versus

The State Of Bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : _____

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

9 10-01-2022 No one appears on behalf of the petitioner. Shri Anand Mohan Prasad Mehta, learned A.P.P. for the State is present in virtual court proceedings.

The case portrays a very sorry state of affairs and at the same time gives an impression to the Court that the Patna Police either gives scant regards to the orders of this Court or has no regards for the orders or are thoroughly incompetent in investigating, cracking and arresting accused, who once were under their custody.

By order dated 18.07.2018, the petitioner was granted provisional bail based on an affidavit sworn by his younger brother, Vijay Sahani to the effect that his father died on 10.07.2018 and the petitioner, being the elder son, had to participate in the last rites. Further, the order dated 18.07.2018



very clearly directed the S.H.O., Agamkuan to depute a Constable who will remain with the petitioner in order to keep a close watch over him during the period of provisional bail and the order was communicated to the S.P. (City), Patna and the S.H.O., Agamkuan Police Station.

The case was again taken up on 03.07.2019 and the order recorded that Office Notes dated 02.07.2019 reflects that the petitioner has not surrendered as no surrender certificate has been filed on behalf of the petitioner, accordingly the S.H.O., Agamkuan was directed to file show-cause explaining the steps which have been taken to apprehend the petitioner and the circumstances in which the petitioner has not surrendered and the matter was kept for 14.08.2019. The matter was again taken up and by order dated 14.08.2019, notices were issued upon Vijay Sahani, younger brother of the petitioner who had sworn the affidavit based on which the petitioner was granted provisional bail as aforesaid and the State was permitted to file show-cause indicating steps taken by the S.H.O., Agamkuan to apprehend the petitioner.

In compliance of the order dated 14.08.2019 the S.H.O., Agamkuan filed his show-cause, the matter was taken up on 18.09.2019 when this Court recorded that the show-cause



filed by the S.H.O., Agamkuan is absolutely not satisfactory, accordingly S.H.O., Agamkuan was directed to be present in the Court on 25.09.2019, on that date i.e. 25.09.2019 the S.H.O., Agamkuan was present but the matter was posted for 20.11.2019 and it was directed that S.H.O., Agamkuan will be present in the Court. It appears that the matter was not taken up on 20.11.2019 and the case was taken up through virtual mode on 15.07.2020 when neither the learned counsel for the petitioner nor the learned A.P.P. for the State appeared and accordingly it was directed that the case be listed after resumption of physical Court proceedings.

What is culled out from the order recorded as aforesaid is that the petitioner was granted provisional bail, he absconded, the S.H.O., Agamkuan was directed to file show-cause regarding steps being taken to apprehend the accused, the show-cause filed by the S.H.O., was found completely unsatisfactory, the S.H.O. was directed to appear in person before the Court, he appeared and time was taken to file an affidavit with regard to the steps taken to arrest the petitioner and the S.H.O. was directed to be present in the Court again on 25.09.2019, thereafter the S.H.O. was present on 25.09.2019 and again the matter was fixed for 20.11.2019 and the S.H.O.



was directed to be present on the said date, thereafter the matter was taken up on 15.07.2020 when none appeared, when the S.H.O., Agamkuan in compliance of the earlier order had to remain present in the Court.

The Court feels perturbed, disturbed as it appears that the authorities, particularly the S.S.P., Patna, S.P. (City) Patna, A.S.P. (Patna City) and S.H.O., Agamkuan have made a mockery of the proceedings of the Court. The Court before passing order records it's displeasure in the strongest term, in the manner the case has been handled by the aforesaid authorities. An accused who was apprehended/arrested gets provisional bail and then with impunity breaches the condition of provisional bail and at his will decides not to surrender and the authorities feel helpless in arresting the petitioner, this depicts a sorry state of affairs and seriously questions the capability of Patna Police. The show-cause and the second show-cause filed by the S.H.O., Agamkuan depicts a very casual approach towards the sacrosanct orders of this Court, the show-cause and the second show-cause records that father of the petitioner is alive and his mother died four years ago and the father has no relation with the son for the last eight years. Further, that the father disclosed that the person (Vijay Sahani)



who had sworn the affidavit claiming to be younger brother of the petitioner is not his son, as such the said Vijay Sahani had sworn a false affidavit based on which the petitioner was granted provisional bail vide order dated 18.07.2018 and thereafter absconded for which Agamkuan P.S. Case No. 532 of 2018 dated 28.07.2018 has been instituted. The second show-cause filed on behalf of the S.H.O., Agamkuan is also more or less to the same effect, the counter affidavit is completely silent with regard to any technical investigation made for arresting the petitioner. The counter affidavit does not give an impression that serious efforts were made by the Patna Police to apprehend the accused, the counter affidavit also does not disclose that what happened to the Constable/Officer who was accompanying the accused petitioner while on provisional bail.

The Court is not able to appreciate that when the police had arrested the accused earlier and is aware of the entire family members of the petitioner as stated in the counter affidavit then how come the police is not able to locate the petitioner. The situation seems deplorable, as from Memo No. 2205 dated 22.08.2019 issued by the S.S.P., Patna, it manifests that he has given direction to the S.H.O., Agamkuan to meet the learned A.P.P. for the State for filing counter affidavit, nothing is



on record from the side of the S.S.P., Patna to even remotely suggest that in terms of the orders of this Court, he made any endeavor to arrest the accused or any team was constituted for investigating the case, as to under what circumstances the petitioner absconded and what steps have been taken to nab him, as from Memo dated 22.08.2019 it manifests that the S.S.P., Patna was aware of the order of this Court. Further, Memo No. 7963 dated 28.08.2019 issued by the A.S.P., Patna City which is on record is equally deplorable as it repeats what has been stated in the Memo No. 2205 dated 22.08.2019 issued by the S.S.P., Patna. The approach, *prima-facie*, of the authorities as aforesaid seems very casual towards the sacrosanct orders passed by the Court.

From the facts of the case as narrated aforesaid, it can easily be culled out that the aforesaid authorities either are very complacent in discharging their duty or does not have regard for the orders of this Court. It absolutely defies all logic, wisdom and reasonable administrative behavior that the authorities when came to know that the petitioner absconded did not even bother to constitute a team to apprehend the accused.

Let the S.S.P., Patna along with A.S.P., Patna City and S.H.O., Agamkuan be present before this Court on 24.01.2022



along with their affidavits, very clearly stating that what steps were taken after 25.09.2019 till date to apprehend the petitioner.

Learned A.P.P. for the State, Shri Amand Mohan Prasad Mehta will communicate the order on the WhatsApp of S.S.P., Patna. Let a copy of this order be forthwith sent to the D.G.P., Bihar, Chief Secretary, Bihar, I.G., Headquarters and S.S.P., Patna.

Put up this case on 24.01.2022 at the top of the list.

In the event, the Court does not start in physical mode by 24.01.2022, then the aforesaid authorities i.e., the S.S.P., Patna, A.S.P., Patna City and S.H.O., Agamkuan are directed to remain present virtually for which they will give their email I.D. to Shri Anand Mohan Prasad Mehta, learned A.P.P. for the State in advance for it's onward communication.

(Satyavrat Verma, J)

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