

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Writ Petition(s)(Criminal) No(s).351/2021

YASH PAL SINGH

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and IA No.103850/2021-EXEMPTION FROM FILING O.T. and IA No.103854/2021-EXEMPTION FROM FILING AFFIDAVIT)

Date : 30-09-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VINEET SARAN
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Divyesh Pratap Singh, AOR
Ms. Pratiksha Tripathi, Adv.
Ms. Shivangi Singh, Adv.
Mr. Vikram Pratap Singh, Adv.

For Respondent(s) Ms. Garima Prasad, AAG
Ms. Ruchira Goel, AOR

UPON hearing the counsel the Court made the following
O R D E R

This is a very serious case where the petitioner, who is father of the deceased is running from pillar to post to ensure that the justice is given to him in a case which was registered against the accused, who were all police officers. The incident is of 2002 and since then the matter has been pending. From the record, it appears that a closure report was filed by the police, which according to the petitioner was only favours the accused. However, the said closure report was rejected by the Trial Court back on 03.01.2005 by a detailed reasoned order. The accused, who are police personnel, were not even arrested for the next nine

months even though there was no stay of the proceedings which order of stay was passed by the Trial Court on 07.10.2005, in the case of one accused person i.e. Manoj Kumar. Thereafter, the other accused persons were still no arrested in a serious case under Section 302 IPC.

Even after the High Court dismissed the writ petition and also the petition under Section 482 Cr.P.C. filed by the co-accused, which was on 20.02.2017, the accused persons were then also not arrested. In 2018, Trial Court had directed the respondent/State to stop payment of salary of the accused persons but still the same was not done except in the case of one accused. The order of stopping of the salary of the accused was again passed on 02.04.2019, which according to the petitioner has yet not been complied.

It is noteworthy that it was only after notices were issued by this Court in this writ petition on 01.09.2021 that the State machinery geared up in action and have arrested two of the accused persons after 19 years and one accused has surrendered. As regards fourth accused, it is stated that he is still absconding.

Learned counsel for the petitioner has stated that the fourth accused, who is absconding, has retired from service in the year 2019 and has been paid all his retiral dues even though there was an order for stopping payment of salary. Such conduct of the respondent/State cannot be understood. The laxity with which State has proceeded in the present case speaks volumes of how State machinery is defending or protecting its own police officers.

The petitioner, who is the father of the deceased who was

killed in an alleged encounter by the police, has been running from pillar to post from the last 19 years. Unfortunately, the manner in which the State has been proceeded, the petitioner has been compelled to file this writ petition under Article 32 of the Constitution of India. Normally, we are slow in entertaining petitions directly filed in this Court but in the extraordinary circumstances of this case, we have entertained this petition to ensure that justice be given to the petitioner, which has been denied for about two decades.

Ms. Garima Prasad, learned Additional Advocate General for the State of Uttar Pradesh has submitted that the State is taking every action in the matter and has also initiated an enquiry as to why steps were not taken at the appropriate stage.

Be that as it may, considering the facts of the case as narrated above, and keeping in view the totality of the circumstances and the sufferings which the petitioner has undergone, we direct that the State of Uttar Pradesh to deposit a sum of Rs.7 lakhs with the Registry of this Court towards interim costs within one week from today. On such deposit being made, the petitioner, who is father of the deceased, shall be entitled to withdraw the same.

List this matter on 20.10.2021.

(ARJUN BISHT)
COURT MASTER (SH)

(PRADEEP KUMAR)
BRANCH OFFICER