

**THE HIGH COURT OF MADHYA PRADESH**  
**M.CrC.1146 /2022**  
**Smt. Nandni Kewat v. State of M.P**

**Through video conferencing**

**Gwalior, Dated: 21.01.2022**

Shri Mohd. Waseem Khan, Counsel for the applicant.

Shri C.P. Singh, Counsel for the State.

It was submitted by Shri Aman Singh Rathore, Superintendent of Police, Datia that he is religiously following the circulars issued by Police Headquarter with regard to execution of summons/bailable warrants/warrants. Yesterday a statement was made by Shri Aman Singh Rathore, S.P. Datia that he had taken note of pending summons. On 18<sup>th</sup> of January, 2022, the register was sent to show that Shri Aman Singh Rathore, S.P. Datia is regularly monitoring execution/non-execution of summons/bailable warrants/warrant. From the register, it was clear that there was nothing in the register to show that Superintendent of Police, Datia had ever taken note of pending summons/bailable warrants/warrants issued by the trial Court. In reply to this query by this Court, it was submitted by Shri Aman Singh Rathore, that register is being maintained only in respect of summons/bailable warrants/warrants issued by the Supreme Court and High Court. Thus, it is clear that no steps were being taken by Shri Aman Singh Rathore to ensure service of pending summons/bailable warrants/warrants which were being issued by the trial Court. Since the entire information was not available with the Court, therefore, by order dated 19.01.2022 Shri Aman Singh Rathore, S.P. Datia was directed to immediately send

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inspection register of the year 2021. Accordingly, the register starting from 01.01.2019 till 29.12.2021 has been sent.

This register is not the inspection register maintained either by Shri Aman Singh Rathore, Superintendent of Police, Datia or by his subordinates. It appears that it is inward and outward register concerning summons/bailable warrants/warrants received from the Supreme Court and the High Court. Furthermore, it also appears that some of the summons/bailable warrants/warrants were sent back unserved. This register is not the inspection register as it was being projected by Shri Aman Singh Rathore on 19<sup>th</sup> of January, 2022. Circular dated 30.3.2019 issued by police headquarter requires that the notice/summons should be served on priority basis and Superintendent of Police shall monitor its execution on day- to- day basis and he would inform the Senior Officers. It is submitted by Shri Aman Singh Rathore that the circular dated 30.03.2019 and 5.4.2019 are not in respect of summons/bailable warrants/warrants issued by the trial court but they are in respect of summons/notice issued by the High Court only, and therefore, summons/notice issued by the trial Court were not monitored.

The details of the warrants which are pending in Distt. Datia have also been given at page no. 46 of the affidavit, according to which, 621 perpetual warrants, 69 warrants of arrest, 91 bailable warrants and 114 summons are pending, whereas 37 warrants of arrest, 70 bailable warrants and 53 summons are pending against

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government officials. This information is completely silent about the perpetual warrants of arrest/ warrants of arrest/ailable warrants of arrest issued against the accused persons as well as against the police personnel.

Yesterday the case was adjourned because Shri Aman Singh Rathore had expressed that he has to attend the video conferencing which shall be chaired by the Chief Minister. As per the news published in the news paper, the Chief Minister had expressed his concern over low rate of conviction even in earmarked cases. When the correctness of this news published in the newspaper was verified from Shri Aman Singh Rathore, then he fairly conceded that Chief Minister had expressed his concern over low rate of conviction even in earmarked cases but expressed that it was not in relation to the District Datia.

Accordingly, a question was put to Shri Aman Singh Rathore, as to whether any perpetual warrants of arrest are pending against accused person or whether some of the accused persons facing investigation in Distt. Datia are still absconding or not, then it was fairly conceded by Shri Aman Singh Rathore that in some of the cases, the accused persons have not been arrested so far. Shri Aman Singh Rathore was also not in a position to point out that in how many cases proceedings under Sections 82 and 83 of Cr.P.C have been initiated and in how many cases the properties of absconding accused persons have been attached. Thus, it is clear that, on one hand, the

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Chief Minister of the State is expressing his concern over the poor rate of convection, but, at the same time, the police department is not interested in arresting the accused or serving the witnesses so that their evidence can be recorded at the earliest point of time. Further, it is being observed by this court that in various cases even the police officers are not appearing before the Court and the trial is being adjourned only on account of the non-cooperation by the police officers as well as the doctors. In the present case also Narendra Sharma, Town Inspector was not appearing before the trial court in spite of service ofailable warrants, as a result, the trial was getting delayed. Thus, it is clear that in spite of concern expressed by the Chief Minister of the State, the police department is working at it's snail's speed and is not showing any concern for the conclusion of trial at the earliest.

Be that as it may.

Shri Aman Singh Rathore had specifically stated that **whatever circulars have been issued by the police headquarter in relation to monitoring of summons/ailable warrants/ warrants, are only in respect of the summons/ailable warrants/ warrants issued by the High Court and not in relation to the trial court** , therefore, summons/ailable warrants/warrants which are being issued by the Trial Court are not be monitored. The submissions made by Shri Aman Singh Rathore may be technically right, but it is the duty of prosecution to ensure that the witnesses are not only given due

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security but they are also produced before the trial Court as early as possible. Thus, by taking the help of technical aspects or lapses left by the police headquarter in its various circulars regarding the monitoring of summons/ailable warrants/warrants, it is clear that the police department is out and out to show its lethargy towards the judiciary as well as they are out and out to violate the fundamental right of the accused of speedy trial. The Supreme Court of India in the case of **Mahendra Chawala v. Union of India** reported in **(2019) 14 SCC 615** has also expressed its concern regarding protection of witnesses and had also formulated the Witness Protection Scheme, but still it has not shown any effect on the working of the police department.

Be that whatever it may be.

Accordingly, it is directed that the Director General of Police shall file his affidavit pointing out as to whether the circular dated 30.03.2019 and 05.04.2019 are meant for summons/ailable warrants/warrants issued by the High Court only or it is the duty of the prosecution to ensure timely service of summons/ailable warrants/warrants issued for appearance of the witnesses. It shall also be clarified that why no instructions have been issued in respect of summons/ailable warrants/warrants issued by the Trial Courts. The Director General of Police of State of Madhya Pradesh is also directed to submit his report as to why the police officers do not appear before the trial Court in spite of service ofailable warrants

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also. Although, Shri Aman Singh Rathore had submitted that the Chief Minister had not expressed his concern regarding poor rate of conviction in Distt. Datia but has also admitted that certain accused persons have not been arrested so far and they are still absconding. Accordingly, the Director General of Police State of Madhya Pradesh is directed to submit his affidavit regarding efforts made by Police Department, Distt. Datia to apprehend the absconding accused persons. A detailed chart shall be produced pointing out the details of each and every accused absconding in Distt. Datia including the date of the registration of offence. The Director General of Police State of Madhya Pradesh is also directed to submit his report to the effect that how many summons/bailable warrants/ warrants/perpetual warrants are pending, including the date of issuance of such summons/bailable warrants/warrants/perpetual warrants. The chart shall also carry the information as to whether proceedings under Section 82/83 of Cr.P.C. were ever initiated against the absconding accused persons or not. An affidavit shall also be filed that what steps would be taken to arrest the absconding accused persons.

During the course of arguments, it was submitted by Shri Aman Singh Rathore that he has full respect for the District Judiciary and in every monthly Crime Control meeting, he always issue directions to the police officers to execute the pending summons/bailable warrants/warrants, but he admitted that there is nothing of that sort in writing. Further, Shri Aman Singh Rathore was

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directed to point out details of such instructions, then he fairly conceded that he do not remember the same and he has to go through the records. It is really surprising that, on one hand, Shri Rathore is claiming that he is constantly issuing instructions, but at the same time, he do not remember the same.

Be that whatever it may be.

Let the affidavit be filed by 5<sup>th</sup> of February, 2022.

List this case **on 8<sup>th</sup> of February, 2022.**

Reader of this Court is directed to keep the registers of the year 2019-2021 as well as of the year 2022 in a sealed packet and hand over to Shri C.P. Singh, who shall keep the same in the safe custody and shall produce the same on 8<sup>th</sup> of February, 2022.

**(G.S. Ahluwalia)**  
**Judge**

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