



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPCR No. 579 of 2022

- Podiyaami Bhima S/o Deva, Aged About 30 Years R/o. Juhupara, Village Minpa, Police Station Chintagupha, District : Sukuma, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
2. Collector, Sukma, District : Sukuma, Chhattisgarh
3. Superintendent Of Police, Sukma, District : Sukuma, Chhattisgarh
4. Superintendent Of Jail, District Jail Dantewada, District : Dantewada, Chhattisgarh
5. Station House Officer, Police Station Chintagupha, District : Sukuma, Chhattisgarh
6. Omprakash, Assistant Sub Inspector, Posted At Police Station Chintagupha, District : Sukuma, Chhattisgarh

---- **Respondents**

(Cause title taken from Case Information System)

For Petitioner : Mr. Praveen Dhurandhar, Advocate
For State/Respondents No.1 to 5 : Ms. Madhunisha Singh, Dy. A.G.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Smt. Rajani Dubey, Judge
Order on Board

Per Ramesh Sinha, Chief Justice

14.07.2023



1. Heard Mr. Praveen Dhurandhar, learned counsel for the petitioner and Ms. Madhunisha Singh, learned Dy. A.G. for the State/respondents No. 1 to 5.

2. By way of this writ petition, the petitioner has prayed for following reliefs:

“10.1 That, the Hon’ble Court may kindly be pleased to direct the respondent state to compensate the petitioner by adequately for illegal detention of the petitioner where due to the fault of state authorities he served in jail for 7 months 26 days.

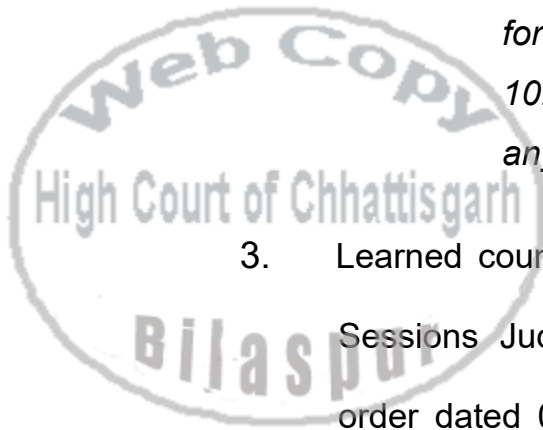
10.2 That, the Hon’ble Court may kindly be pleased to direct the respondent state to take criminal and departmental action against the culprit police authorities who involved in illegal detention of the petitioner.

10.3 That, the Hon’ble Court may kindly be pleased to direct for judicial enquiry over the issue.

10.4 That, the Hon’ble Court may kindly be pleased to grant any other relief, as it may deem fit and appropriate.”

3. Learned counsel for the petitioner submits that the Court of Additional Sessions Judge, Dantewada, District- South Batar Dantewada, vide order dated 03.03.2022 found that the detention of the petitioner was illegal one as he was not involved in the criminal case which was registered against the person who was known by the name of the petitioner and the officer concerned did not take any caution while arresting the petitioner who is not wanted in the criminal case and he had ordered for an enquiry against the erring official for this act.

4. Learned State counsel submits that as per the return filed by the State, it is the case of an illegal detention and departmental enquiry was initiated by the competent authority against the officer who was guilty of arresting the petitioner in the present case though he was not wanted in the said case, but during the enquiry the said official- Omprakash Nareti has died.





5. Heard leaned counsel for the parties and perused the material available on record.
6. Hon'ble Apex Court in the matter of **Rudul Sah Vs. State of Bihar and another** in **AIR (1983) 4 SCC 141** has held in para 10 as under:-

“10. We cannot resist this argument. We see no effective answer to it save the stale and sterile objection that the petitioner may, if so advised, file a suit to recover damages from the State Government. Happily, the State's Counsel has not raised that objection. The petitioner could have been relegated to the ordinary remedy of a suit if his claim to compensation was factually controversial, in the sense that a civil court may or may not have upheld his claim. But we have no doubt that if the petitioner files a suit to recover damages for his illegal detention, a decree for damages would have to be passed in that suit, though it is not possible to predicate, in the absence of evidence, the precise amount which would be decreed in his favour. In these circumstances, the refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. [Article 21](#) which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders to release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of [Article 21](#) secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilization is not to perish in this country as it has perished in some others too well-known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers.”

7. Taking into consideration the great harm done to the petitioner by the





State authorities, he has to remain in jail for a period of about 8 months whereas he was not wanted in any criminal case and was arrested on a wrong identity and he was released by the learned Additional Session Judge vide order dated 03.03.2022 who has observed in the order about the careless act of the erring police officers and directed the SP concerned to take action against the police personnel concerned, we are of the opinion that State has to pay compensation of Rs.1,00,000/- to the petitioner for illegal detention within a period of two months.

8. With the aforesaid direction, the instant petition stands disposed off.

Sd/-

(Rajani Dubey)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

