

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/COMP.** 3578/11

Case of **SONU Kr. SINGH**

The brief facts of this case are that one Sonu Kumar Singh son of Parmanand Singh – resident of Naya Tola Bihar, Jamui – was acquitted in the case in connection with which he was lodged in Jamui Jail by the Jamui court but he was not released as he was required in some case in a court at Rohini (Delhi) His father approached this Commission alleged that the Rohini court had sent production warrant to the Superintendent, Jamui Jail on 22.7.2011 for his production on 30.8.2011 but despite passage of three months time, he was not being sent to Delhi for production in the court concerned. The applicant stated that the offence – which was subject matter of the case in the Rohini court – is bailable, and therefore, had his son been produced in court pursuant to production warrant, he would have been released on bail. The applicant thus alleged that on account of the inaction on the part of the jail/police authorities his son was rotting in jail.

On 10.1.2012 the Commission called for report from S.P. Jamui and, later, as the report was not forthcoming – fixed the case for oral hearing by a speaking order dated 30.1.2012. In the said order the Commission explained the implications of non-production of the applicant's son. When the matter was taken up for hearing on 15.2.2012 S.P. Jamui submitted copy of the order of the Metropolitan Magistrate (Outer) Rohini Courts Delhi dated 7.2.2012 showing that Sonu Kumar Singh was produced in his court and granted bail observing that the offence in question is bailable.

In its order dated 17.2.2012 the Commission observed as follows:-

“The complaint of the applicant, it would thus appear, stands proved. It is clear that had the applicant's son, Sonu Kr. Singh, been produced in the court at Rohini (Delhi) earlier he would have been granted bail in routine as a matter of course since the offence is bailable in nature. It would thus follow that the detention of Sonu Kr. Singh as a result of his non-production in Rohini (Delhi) courts was totally unjustified.”

It is relevant to mention here that in course of hearing S.P. Jamui confirmed that Sonu Kumar Singh was involved in two cases in the Jamui courts in which he had been acquitted, respectively, on 12.9.2011 and 27.9.2011. In the ordinary course, thus, he would have been released from custody on 27.9.2011 but for the production warrant of Rohini (Delhi Court). The date of production in

the Rohini court was 30.8.2011, and if it was not possible to produce him on the date fixed, in view of the ongoing trial in the Jamui Court, there was no justification to delay production after 27.9.2011, say, within a week or so therefrom.

It is thus clear that if the officials had shown due awareness and acted promptly Sonu Kumar Singh could have been produced in Rohini Delhi Courts some time in the first week of October 2011 but the production took place on 7.2.2012 - only after the Commission intervened in the matter. If the Commission had not intervened on time, perhaps, his production would have been further delayed. In the circumstances, the Commission observed that in its order dated 17.2.2012, that detention of Sonu Kr. Singh from first week of October upto 7.2.2012 i.e. for a period of four months was totally unjustified.

Article 21 of the Constitution of India guarantees personal liberty to every citizen which cannot be taken away except according to procedure established by law. The detention for the additional period of four months being unjustified a case was made out for grant of compensation.

Notice was accordingly issued to Secretary Home (Special) Department as to why compensation be not awarded. Instead of filing show-cause, the Home (Special) Department vide memo no.2590 dated 14.3.2012 asked the DGP Bihar to submit report straight to this Commission. No such report has been filed till date despite two adjournments and reminders vide orders dated 17.4.2012 and 20.6.2012.

In the facts and circumstances, the Commission would award compensation of Rs.50,000 (fifty thousand) payable to the applicant's son Sonu Kumar Singh for his unauthorised detention.

The Commission would direct Secretary, Home (Special) Department to pay the amount within a period of six weeks and submit compliance report to this Commission. The State Government would do well to recover the amount from the salary of the erring officials in accordance with law.

Copy of this order may be sent to Secretary, Home (Special) Department and the applicant for compliance/information, as the case may be.

Date: 13.08.2012

Justice S.N. Jha
Chairperson