

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16643 of 2015

Arising Out of PS.Case No. -152 Year- 2014 Thana -PARSA District- SARAN

1. Niraj Kumar Rai Son of Nageshwar Rai resident of village - Anyay, P.S. Parsa, District - Chapra (Saran)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Sucheta Yadav(App)

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

3 16-07-2015 Heard Shri Yogesh Chandra Verma, learned senior counsel appearing on behalf of the petitioner as also the learned APP for the State.

For the kidnapping of Deepak Kumar Soni, the son of the informant, Parsa P.S.Case No.152 of 2014, was registered against unknown. It appears that on suspicion some persons were arrested and the victim was also recovered. The arrested suspect was pointing out that it was this petitioner and others who had indeed been involved directly or indirectly in commission of the offence. The victim of the offence making statement under Section 164 Cr.P.C. was stating that his kidnappers, in the course of taking him away had given calls to someone to say that Niraj Kumar Rai be informed that the mission has been accomplished. Police

suspected this petitioner Niraj Kumar Rai on the basis of two statements and that is the reason that the petitioner has come up before this Court through an application under Section 438 Cr.P.C.

The Court refers to Sections 41,42 and other allied Sections of the Cr.P.C. which gives powers to a police officer, a member of the general public or even a public servant, like, a Magistrate to affect arrest and if one could peruse those provisions one could find that on mere suspicion of having committed a non-bailable, cognizable offence some one may be arrested. In an offence under Section 364 Indian Penal Code or 395 or 396 Indian Penal Code what our experience tells us is that the FIR is generally against unknown and further that the investigation starts on suspicion, may be that the names are cropping up through the confessional statement of a co-accused as in the present case. The confession and its admissibility are of no consideration in matters of bail and investigation as they could be only the basis of further investigating the case. On suspicion, police arrests an accused person named in different confessions or appear involved in the commission of the offence and then get them remanded so as to obtaining them on police remand for further questioning in order to picking up the lost threads of the commission of the offences. It could be the process and procedure that by arresting such suspects

the police may be put them on test identification parade. If this Court starts granting anticipatory bail to such suspected accused of such serious offences, it will be indeed foreclosing of all avenues of investigation and thus, allow such offences being committed on regular basis, considering which, the petition is dismissed in connection with the above noted case pending in the Court of CJM, Chapra (Saran).

(Dharnidhar Jha, J)

B.Kr./-Saif.

U		T	
---	--	---	--