

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1036 of 2014

Arising Out of PS.Case No. -118 Year- 2014 Thana –Khajekalan, District- Patna

Most. Babita Devi, Wife of Late Jainandan Raut, R/o Mohalla-Danka Kuncha Sadargali, Patna City, P.S.-Khajakela, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through its Director General of Police, Bihar, Patna.
 2. The Senior Superintendent of Police, Patna.
 3. The Inspector General of Police, Central Range, Patna.
 4. The Deputy Inspector General of Police, Patna.
 5. The Superintendent of Police, City, Patna.
 6. The Deputy Superintendent of Police, Patna City.
 7. The Office Incharge Khajekalan Police Station.
 8. Mr. Dilip Kumar Singh, S/o not known to the petitioner, Investigation Officer at Khajekalan, P.S. Case No.118 of 2014.
 9. Vijendra Roy, S/o shree Ram Briksh Roy.
 10. Daroga Roy, S/o Shree Ram Briksh Roy.
- Both resident of village-Rustompur, Pancha Puriya, P.S. Rustompur, District-Vaishali.

.... Respondent/s

Appearance :

For the Petitioner : Mr. Dheeraj Kumar, Advocate
For the Respondent-State : Mr. N. K. Singh, Standing Counsel No.2
Mr. Kamlesh Prasad, A.C. to S.C. No.2

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 29-09-2015

Heard Mr. Dheeraj Kumar, learned Counsel, appearing for the petitioner, and Mr. N. K. Singh, learned Standing Counsel No.2, appearing for the respondents.

The petitioner lodged a complaint, on 06.05.2014, to the Station House Officer, Khajekalan, Patna City, stating therein that her son, namely, Kanhaiya Kumar, aged 22 years, resident of Danka Kuncha,



Sadargali, Police Station Khajekala, Patna City, had gone out on 03.05.2014, and had not returned till 06.05.2014 and she, therefore, requested the police to recover her son. On the information so given, Khajekalan P.S. Case No.118 of 2014, under Sections 363/365 of the Indian Penal Code was registered, on 06.05.2014, against *unknown person*.

On 26.06.2014, the petitioner submitted an application to the Station House Officer, Khajeklan, Patna City, alleging, *inter alia*, that respondent No.9, namely, Vijendra Roy, had taken loan amounting to Rs.10,000/- from her son and, on the date of the occurrence, her son was called by respondent No.9 as regards the return of the loan amount and since then, her son had become traceless and she, therefore, apprehended that some wrong might have been caused to her son by respondent No.9 and, accordingly, requested the police to take appropriate action.

During investigation, respondent No.9, namely, Vijendra Roy was arrested in connection with the case, but he escaped from police custody on the pretext of going to answer the call of nature.

Suspecting that there might have been some foul play and connivance between the police and the absconding accused aforementioned, the petitioner filed a petition in the Court of learned Sub-Divisional Judicial Magistrate, Patna City, on 20.09.2014.

As the petitioner's son remained traceless, the petitioner has

filed this writ petition, under Articles 226 and 227 of the Constitution of India, seeking, *inter alia*, a direction to the police to recover the petitioner's said son and hand him over to the petitioner.

From time to time, orders have been made in this case and in compliance with the order, dated 17.08.2015, whereby the Senior Superintendent of Police, Patna, was directed to swear an affidavit indicating if the police were serious in recovering the son of the petitioner and arresting the accused, the Senior Superintendent of Police, Patna, has filed his affidavit, which indicates that as the investigation of the case aforementioned had suffered a set back, because of the fact that the accused, namely, Vijendra Roy, had fled away, erring police constable has been suspended and a departmental proceeding has been initiated against him. The affidavit also shows that Khajekalan P.S. Case No.223 of 2014 has been registered, on 28.08.2014, under Sections 224/353 of the IPC against accused Vijendra Roy for having absconding from police custody. The affidavit avers that the police have conducted raids at the possible hideouts and attached assets of the said accused, but they have not been able to find out the whereabouts of the petitioner's son nor they have been able to apprehend accused Vijendra Roy. The affidavit further shows that Special Investigating Team has been constituted, on 20.08.2015, by the Senior Superintendent of Police, Patna, for recovery of the petitioner's son and the photograph, with

details of the petitioner's son, namely, Kanhaiya Kumar, have already been published in the daily newspaper, on 14.08.2015, but no recovery has been made.

In view of the fact that the investigation is in progress and we do not, at this stage, have any specific material indicating that the Special Investigation Team is not sincere in completing the investigation, arresting the absconding accused and in making recovery of the petitioner's son, we close the writ petition with a direction to the Senior Superintendent of Police, Patna, to ensure speedy and effective investigation taking the cases aforementioned to their logical conclusions. The police are further directed to take all such steps as may be necessary in order to ensure the recovery of the petitioner's son.

With the aforementioned observations and directions, the writ petition stands disposed of.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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