

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3000 of 2015

Arising Out of PS.Case No. -65 Year- 2014 Thana -BAHADURPUR District- DARBHANGA

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1. Himeshwar Kumar Mishra @ Himesh Kumar Mishra @ Himeshwar Mishra S/o Daya Shankar Mishra Resident of Village Karmawa, Police Station Dhaka, District Motihari.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Jha, Advocate

For the Opposite Party/s : Mr. Kalyan Shankar, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 18-02-2015

Heard learned counsel for the petitioner as well as

learned APP for the State.

2. At an initial stage, with regard to kidnapping of Pashupati Kunwar @ Munna Mukhiya as well as Shailendra Kumar Ojha who was employed as a driver of Shashi Kumar and was directed by his master to carry Pashupati Kunwar @ Munna Mukhiya to go to the place of Kanhai Paswan in the village- Navtolia, two cases bearing Bahadurpur P.S. Case No. 65/2014 as well as Bahadurpur P.S. Case No. 67/2014 were registered. Bahadurpur P.S. Case No.65/2014 was registered on the written report of Bechan Ojha, father of Shailendra Kumar Ojha while Bahadurpur P.S. Case No. 67/2014 was registered on the written report of Sudha Devi wife of Pashupati Kunwar @ Munna Mukhia. Investigation of both the cases were independently



carried out, however, at one point of time, the supervising authority perceived the same and accordingly, directed to amalgamate both the cases, consequently thereupon, Bahadurpur P.S. Case No. 67/2014 was amalgamated with Bahadurpur P.S. Case No. 65/2014.

3. Petitioner at an earlier occasion was apprehended in connection with Bahadurpur P.S. Case No. 67/2014, however, the day on which he approached this Court, Bahadurpur P.S. Case No. 67/2014 was already amalgamated with Bahadurpur P.S. Case No. 65/2014 and on account thereof, learned counsel for the petitioner, at that very moment was unable to say with regard to remand of petitioner in connection with Bahadurpur P.S. Case No.65/2014, as well as regarding maintainability of prayer as rejection was in connection with Bahadurpur PS Case No. 67/2014, on account thereof, the matter was remitted back directing the petitioner to proceed afresh after verifying his remand in connection with Bahadurpur P.S. Case No. 65/2014 and the exercise having been done at the end of petitioner, ultimately brought up to this stage on account of refusal of prayer for bail by the learned lower courts.

4. From perusal of the case diary of Bahadurpur P.S. Case No.65/2014, more particularly, except para-104, nothing more remains. However, from the case diary of Bahadurpur P.S.



Case No. 67/2014 which now happens to be a part and parcel of the present one, it is evident that petitioner along with Santosh Chaudhary, Ganpati Choudhary and Nandan Choudhary were detained, interrogated and then, as per para-66 they were let off after having execution of the bond. Subsequently thereof, as is evident from para-69 of the case diary, the call details were taken out and during course thereof, presence of petitioner on the fateful day along with Pardesi was found proceeding towards Andama and further, having conversation with other co-accused whereupon, petitioner was apprehended and he was interrogated and during said course, he made an inculpatory extra-judicial confessional statement and on his disclosure, as per para-75, one shirt having blood stain, utensil, wine bottles and glasses were seized from a hut belonging to Sanjay Singh at village-Andama. Para-81 contains the inculpatory extra-judicial confessional statement of the petitioner.

5. Apart from raising the plea that other co-accused is found bailed out either under anticipatory bail or regular bail, it has been submitted on behalf of the petitioner that during course of investigation, identification of shirt has not been traced out. It has also been submitted that none had identified the petitioner nor named him and on account thereof, his case stands on much better

footing than that of other co-accused. It has further been submitted that Prajesh Kumar @ Prayesh Kumar Rai @ Pardeshi @ Tuntun Roy @ Brajesh Kumar has already been granted anticipatory bail and more or less, as per para-69 of the case diary, his case stands on similar footing.

6. On the other hand, learned APP opposed the prayer for bail.

7. In the aforesaid facts and circumstances of the case, petitioner, Himeshwar Kumar Mishra @ Himesh Kumar Mishra @ Himeshwar Mishra is directed to be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of Amit Kumar, Judicial Magistrate-1st Class, Darbhanga in connection with Bahadurpur PS Case No.65/2014.

(Aditya Kumar Trivedi, J)

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