

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.342 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Kesh Nath Dubey son of Late Satya Narayan Dubey, R/o Mohalla- Mahatma Gandhi Nagar, Bazar Samitee Road, Police Station- Town Thana, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Senior Superintendent of Police, Patna.
4. The Superintendent of Police, Buxar
5. The Station House Officer, Buddha Colony Police Station, Patna
6. The Investigating Officer, Buddha Colony Police Station, Patna
7. Priyanka Gautam, wife of Rahul Dwivedi, daughter of Bimal Kishore Mishra, presently residing at Saraswati Niwas, 1st Floor, Road No. 6/C, Rajendra Nagar, Police Station- Kadam Kuan, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate

For the Respondent/s : AC to GP-9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-04-2015

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for a direction to the Court below to release the goods attached under process of Section 83 Cr.P.C., and for removal of locks from the house at Mohalla Mahatma Gandhi Nagar, Bazar Samitee Road, Police Station Town Thana, District Buxar and also the house situated in the ancestral village of the petitioner.

3. The petitioner is the father-in-law of the informant



who has instituted Budha Colony P.S Case No.151 of 2014 under Section 498(A), 341, 323, 504, 34 IPC and Section 3 and 4 of the D.P. Act. It appears that for non-appearance of the petitioner's son and husband of the informant, process under Section 83 Cr.P.C. had been issued, pursuant to which the residential houses were sealed along with the household goods lying inside. It is submitted that without proper enquiry and verification, the houses claimed to be belonging to the petitioner and the goods lying within have illegally been sealed/attached. In any event, the proclaimed offender Rahul Dwivedi has since appeared and has been granted provisional bail by this Court in Cr. Misc. No. 32376 of 2014. As stated in paragraph 5 of the writ petition, the petitioner along with his eldest son and wife of the eldest son have also been granted anticipatory bail on 10.07.2014 by the learned Court below. It is further stated that a petition under Section 84 and 85 Cr.P.C. was filed before the learned Court on 08.12.2014 claiming ownership of the said houses and praying for release of the articles, goods and utensils lying in the said house. Another petition was also filed for release, which has not been disposed of.

4. Learned Counsel for the State appears and opposes the writ petition.

5. Having regard to the facts and circumstances of the case as well as submission of the parties, this Court is unable to

find any justification for continuing the attachment of the properties claimed to belong to the petitioner, pursuant to process under Section 83 Cr.P.C. relating to his son Rahul Dwivedi, when both the said persons are on bail.

6. It is accordingly directed that both the houses along with goods and articles lying therein be released forthwith to the petitioner subject to the undertaking that the petitioner shall regularly appear before the learned Court below.

7. The writ petition stands allowed.

(Vikash Jain, J)

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