

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10040 of 2015

Arising Out of PS.Case No. -541 Year- 2014 Thana -GAYA MUFFSIL District- GAYA

1. Udesb Kumar Yadav @ Udesb Kumar S/o Ram Kishun Yadav Resident
of Village Banda Bardag, P.S. Mohanapur, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.10890 of 2015

Arising Out of PS.Case No. -541 Year- 2014 Thana -GAYA MUFFSIL District- GAYA

1. Mithilesh Yadav son of Dularchand Yadav,
2. Rajesh Kumar, son of Jai Nandan Yadav, Both resident of Village-
Jhurang, P.S.- Fatehpur, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.10040 of 2015)

For the Petitioner/s : Mr. Shivendra Prasad, Adv

For the Opposite Party/s : Mr. Sanjay Kr.Tiwary (APP)

(In Cr.Misc. No.10890 of 2015)

For the Petitioner/s : Mr. Sudhir Kumar Sinha, Adv.

For the Opposite Party/s : Dr.Ajeet Kumar (APP)

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

4 12-05-2015 Cr.Misc. No. 10040/2015 wherein petitioner is Udesb
Kumar Yadav @ Udesb Kumar and in Cr.Misc.No.10890/2015,
petitioners are Mithilesh Yadav and Rajesh Kumar commonly
originate out of Gaya Mufassil PS Case No. 541/2014 and on
account thereof, both have been heard together and are being
disposed of by a common order.

On account of kidnapping of one Kundan, a mobile
shopkeeper, the instant case has been registered on the written

report of Suresh Sao, father of the victim against unknown.

It is apparent from the case diary that subsequently, the kidnappers advanced the demand of ransom and for that used mobile phone belonging to the victim. Investigating Officer after locating the location of the SIM proceeded and then, as is evident from para-146 of the case diary apprehended five persons. One of them namely, Raushan Kumar Sinha @ Raushan Lala made inculpatory extra-judicial confessional statement, as is evident from para 152 of the case diary, whereunder he had disclosed the present location of the victim having kept at the house of petitioner, Mithilesh Yadav whereupon, as per para-160 of the case diary, police conducted raid and recovered the victim. At that very moment, also apprehended these three petitioners, that means to say, Mithilesh Yadav, Rajesh Kumar and Udesch Kumar Yadav @ Udesch Kumar including others.

It has been submitted on behalf of the petitioners that the instant case at the initial stage was registered under Section 365 IPC which subsequently was converted under Section 364A IPC. However, there happens to be complete absence of the material, during course of investigation, regarding status of these three petitioners. Furthermore, the victim in his statement recorded

under Section 164 Cr.P.C. as per para 191 of the case diary, did not name these three petitioners. As such, petitioners should be released on bail.

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

As recorded above, after apprehension of Raushan as well as having his inculpatory extra-judicial confessional statement and further having pointed out by Raushan, the victim was rescued from a hut belonging to petitioner, Mithilesh Yadav and petitioner, Mithilesh Yadav was apprehended therefrom. On account thereof, prayer for bail of petitioner no.1, Mithilesh Yadav (Cr.Misc.No. 10890/2015) is rejected.

With regard to petitioner no.2, Rajesh Kumar (Cr.Misc.No. 10890/2015) and petitioner Udesb Kumar Yadav @ Udesb Kumar (Cr.Misc.No. 10040/2015) are directed to be released on bail on furnishing bail bond of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Gaya in Mufassil PS Case No. 541/2014.

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(Aditya Kumar Trivedi, J)

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