

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42513 of 2015

Arising Out of PS.Case No. -859 Year- 2014 Thana -BIHTA District- PATNA

1. Bipin Kumar Singh Son of Late Nageshwar Singh, Resident of village-
(Maldhiyatola), Mokama, P.S.- Mokama, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.43512 of 2015

Arising Out of PS.Case No. -859 Year- 2014 Thana -BIHTA District- PATNA

1. Anant Singh @ Anant Kumar Singh Son of Late Chandradeep Singh
Resident of Village-Nadawan, P.S.-Barh, District-Patna. A/P-1 Mal Road,
P.S.-Sachiwalay, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance:

In both cases

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
For the State : Mr. S. Dayal (App)
For the informant : Mr. Amar Jyoti Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

07/ 18.01.2016

1. Both the above stated petitions filed under sections 439 and 440 of the Code of criminal Procedure arising out of Bihta P.S. Case no. 859/2014 initially, registered under sections 363, 365/34 of the Indian Penal Code and subsequently, section 364/34 of the Indian Penal Code was also added and accordingly, both the above stated petitions were heard and disposed of together.

2. I have heard all the parties at length.



3. The accusation against the petitioners is that they, having armed with deadly weapon, went at the house of the victim Rajiv Ranjan Singh @ Raju Singh and forcibly abducted the victim and started fleeing by their vehicle. The reason behind the alleged occurrence is said to be demand of Rs 10/- crores as extortion money for which victim had lodged a case in Krishnapuri police station and furthermore, petitioner in Cr. Misc. no. 43512/2015 had purchased six kathas land but had not paid Rs 1 crore 75/- lakhs.

4. Photostat copy of case diary has been received which goes to show at para 15 of the case diary that in course of investigation, Investigating officer got a wireless message that the victim of the present case had been kept at Shastrinagar police station and having got the aforesaid information, Investigating officer went to Shastrinagar police station where he found the victim sitting in Shastrinagar police station.

5. Investigating officer recorded the statement of the victim at para 17 of the case diary in which victim stated that on 14.11.2014 at about 12.30 p.m, while he was sitting in his house along with some persons, petitioners and other persons entered his house and caught him and after that he was forcibly got seated in Pegero vehicle and petitioner in Cr. Misc. no. 43512/2015 as well as his some associates also sat in the said vehicle. Victim further stated that while he was being taken by the petitioner and his associates, vehicle was intercepted by the police and after that he as well as other persons were brought to police station. He also stated that he was assaulted by petitioner in Cr. Misc. no. 43512/2015 by his weapon.

6. The Officer-in-charge of Shastrinagar police station also endorsed the statement of the victim. However, Investigating officer of the present case came to learn that victim was an accused in Gaurichak P.S. case no. 74/2014 and accordingly, he was sent to the concerned police station for remand in the aforesaid case and subsequently, he was produced before the court and remanded to judicial custody in connection with the above stated case.

7. The aforesaid fact has been stated by almost all police officials who were present when the vehicle in which victim was being carried was intercepted by the police.

8. I would like to refer that on the prayer of learned counsel for the informant, this court called for Sanha entry of Shastrinagar police station and it would appear from perusal of sanha entry of the aforesaid police station that Senior Superintendent of Police, Patna had given wireless message to the Officer-in-charge of Shastrinagar police station to keep vigil at Dumra Mor as he was chasing some vehicles which were fleeing from Danapur to Patna. Furthermore, Sanha entry no. 632 goes to show that victim of this case was brought to Shastrinagar police station and similarly, Sanha entry no. 634 goes to show that petitioner in Cr. Misc. no. 43512/2015 was permitted to leave Shastrinagar police station on the date of alleged occurrence.

9. Further, in course of investigation, statement of the victim was recorded under section 164 of the Cr.P.C on 4.7.2015 i.e. after eight months of the alleged occurrence and in the aforesaid statement, victim supported the allegation of his abduction and assault by the petitioners and their associates.

10. Learned counsel appearing for the petitioners submitted that, as a matter of fact, victim gave a proposal to petitioner in Cr. Misc. no. 43512/2015 as well as his firm, namely, Rajnandani Project Private limited for purchase of some land for which petitioner in Cr. Misc. no. 43512/2015 gave advance of more than Rs 4 crores but subsequently, it came to light that victim of the present case had no right to sell the aforesaid land nor any authority to negotiate for sell of the land and, as a matter of fact, he fraudulently took more than Rs 4 crores from petitioner in Cr. Misc. no. 43512/2015 and when the aforesaid petitioner demanded his money back, victim lodged false cases against the aforesaid petitioner and others. It is further contended by him that victim is himself a man of criminal antecedent and near about seven criminal cases have been lodged against him. It is further contended by him that petitioner in Cr. Misc. no. 43512/2015 has been made victim of political rivalry and that is why statement of so-called victim under section 164 of the Cr.P.C was recorded after eight months of the alleged occurrence, particularly, in the circumstance when the Investigating officer as well as other police officials were aware of the fact that victim of the present case was languishing in jail custody in connection with a criminal case. It is further contended by him that, as a matter of fact, after recording the statement of the victim under section 164 of the Cr.P.C, police as well as local administration got prepared forged documents in respect of so-called injury of the victim which is fortified by this fact that when victim was produced before the court in connection with Gaurichak P.S. case no. 74/2014, he never made any complain regarding his





injury nor the court noticed so-called injury and, therefore, the aforesaid fact goes to show that the victim had not received any injury. It is further contended by him that even if it assumed for the sake of convenience that the victim was forcibly taken away by the petitioners and others, then also, at best, a case of section 363 of the Indian Penal Code is made out which is bailable because there is nothing on record to show as to for what purpose victim was kidnapped.

11. On the other hand, learned counsel appearing for the informant vehemently opposed the prayer for bail and submitted that petitioners are named in the statement of the victim recorded under section 164 of the Cr.P.C and apart from this, witnesses including police officials very clearly stated that victim was recovered from the vehicle of petitioner in Cr. Misc. no. 43512/2015 and after that they were taken to police station. It is further contended by him that petitioner in Cr. Misc. no. 43512/2015 is a very mighty person and carries criminal antecedent of near about 54 cases of serious nature and influence of petitioner in Cr. Misc. no. 43512/2015 reflects from this fact that even though petitioners and their associates were caught red handed carrying the victim in a vehicle by the police, petitioner in Cr. Misc. no. 43512/2015 was left by the concerned police official whereas victim was remanded in a criminal case and, therefore, the aforesaid fact is a clear indication that police officials were dancing at the tune of petitioner in Cr. Misc. no. 43512/2015. It is further contended by him that petitioner, particularly, petitioner in Cr. Misc. no. 42513/2015 is a threat to the society and police could arrest the

aforesaid petitioner with great effort and difficulty and if petitioners are released on bail, trial of the petitioners shall be hampered because no prosecution witness will dare to come to depose against the aforesaid petitioners.

12. Learned Addl. Public Prosecutor echoed the submissions of learned counsel for the informant and also referred a decision rendered by Apex Court of this country in **Criminal Appeal no. 1272 of 2015 SLP (Crl) No. 1596 of 2015 Neeru Yadav vs State of U.P. and Anr** and submitted that criminal antecedent of an accused plays a vital role for consideration of bail and the Apex Court of this country clearly observed that history-sheeter should not be released on bail.

13. On the strength of the aforesaid decision, learned Addl. Public Prosecutor submitted that both petitioners are history-sheeter though petitioner in Cr. Misc. no. 42513/2015 appears to be in police service.

14. Before making any comment on the petitions of the petitioners, I would like to refer para 3 of Cr. Misc. no. 43512/2015 in which criminal antecedent of petitioner in Cr. Misc. no. 43512/2015 has been described which runs as follows:-

“(1) Barh P.S. Case No.03.07/80 (Sessions Trial No.382/1) U/s 307/34 IPC acquitted, (1) Barh P.S. Case No.21.03/80 (Sessions Trial No.597/81) U/s 307/34 IPC and 27 of Arms Act acquitted, (3) Barh P.S. Case No.149/82 (Sessions Trial No.289/84/1029/86) U/s 302/34 IPC and 27 of Arms Act acquitted, (4) Barh P.S. Case No.267/86 (Sessions Trial No.323/90) U/s 307, 324, 426/34 IPC and 3/5 Explosive Substance Act, acquitted,





(5) Barh P.S. Case No.186/88 (Sessions Trial No.1108/92) U/s 307, 353, 34 IPC and 27 of Arms Act, (6) Barh P.S. Case No.133/90 (Sessions Trial No.1126/92) U/s 34 IPC, acquitted, (7) Barh P.S. Case No.246/92 (Sessions Trial No.612/94) U/s 364, 302 IPC, acquitted, (8) Barh P.S. Case No.278/92 (Sessions Trial No.1185/2006) U/s 364, 307, 302 IPC and 27 of Arms Act, acquittal, (9) Barh P.S. Case No.322/92 U/s 324, 307/34 IPC and 3/8 of Explosive Substance Act (in which final report was submitted), (10) Barh P.S. Case No.226/92 U/s 364/34 IPC (Final form was submitted), (11) Barh P.S. Case No.324/92 U/s 147, 323, 307, 379/34 IPC, (12) Barh P.S. Case No.333/92 U/s 307, 302 IPC and 27 of the Arms Act, (13) Barh P.S. Case No.552/92 U/s 364, 302/34 IPC and 27 of the Arms Act, (14) Barh P.S. Case No.375/92 U/s 302, 307/34 IPC and of the Arms Act, (15) Barh P.S. Case No.376/92 U/s 148, 149, 353, 307 IPC and 27 of the Arms Act, (16) Barh P.S. Case No.453/95 U/s 148, 307, 302 IPC and 27 of the Arms Act, (17) Mokama P.S. Case No.22/2005 U/s 133, 136 PRF and 17H (18) Barh P.S. Case No.326/87 U/s 364 IPC, (19) Saksohra P.S. Case No.02/2000 U/s 147, 148, 307, 302, 201, 452, 380 IPC and 27 of the Arms Act, (20) Barh P.S. Case No.56/95 U/s 133, 136, PRA and 17 H, (21) Saksohar P.S. Case No.07/92 U/s 302/34, IPC and 27 of the Arms Act, (22) Phulwaria P.S. Case No.45/83 U/s 399, 402 IPC and 27 of the Arms Act, (23) Barh P.S. Case No.112/86 U/s 430, 295 A, 343, 379, 323, 426/34 IPC, (24) Mokama P.S. Case No.182/10 U/s 188 IPC and 17H, (25) Mokama P.S. Case No.195/10 U/s 323, 341 IPC, (26) Barh P.S. Case No.407/93 U/s 364, 365/34 IPC, (27) Barh P.S. Case No.60/95 U/s 414 IPC, (28) Barh P.S. Case No.09.01.76 U/s 379 IPC (Final form), (29) Sachivalaya P.S. Case No.99/07 U/s 147, 148, 323, 307 (Acquitted), (30) Barh P.S. Case No.13.05.79 U/s 379/34 IPC, (31)



Barh P.S. Case No.03.03.79 U/s 302/34 IPC, (32) Barh P.S. Case No.151/86 U/s 399, 402 IPC, (33) Barh P.S. Case No.09.11.80 U/s 379/34 IPC.

Details of cases in which are pending against the petitioner are as follows:

(1) Barh P.S. Case No. 174/93 U/s 307, 353/34 IPC, (2) Barh P.S. Case No.133/04 U/s 307, 353/34 IPC, (3) Barh P.S. Case No.370/89 U/s 353, 399, 402, 307 IPC and 27 of the Arms Act, (4) Barh P.S. Case No.343/89 U/s 216 IPC, 23A and 26 of Arms Act, (5) Barh P.S. Case No.292/04 U/s 307, 353, 302, 120-B IPC and 27 of Arms Act, (6) Saksohra P.S. Case No. 05/92 U/s 307, 302/34 IPC, (7) Sachivalaya P.S. Case No.101/07 U/s 147, 148, 323, 307 IPC, (8) Kotwali P.S. Case No. 10/2008 U/s 302, 120-B/34 IPC, (9) Beure P.S. Case No. 55/2009 U/s 302, 120-B/34 IPC, (10) Beure P.S. Case No.36/13 U/s 363, 364, 201 IPC, (11) Dhansar P.S. Case No.902/11 U/s 302, 120-B IPC, (12) Barh P.S. Case No. 260/14 U/s 302, 120-B/34 IPC and 27 of Arms Act, (13) Barh P.S. Case No.241/15 dated 18.06.2015 for the alleged offence under sections 341, 323, 364, 506, 307, 302, 201, 120-B of the Indian Penal Code, (14) Sachivalaya P.S. Case No. 54/15 U/s 25 (1-b)A, 26, 35 of Arms Act, (15) Khizarsarai P.S. Case No.33/15 U/s 307 IPC and SC/ST Act, (16) S.K. Puri P.S. Case No.404/13 U/s 386, 387, 506, 120-B/34 IPC, (17) Bahadurpur P.S. Case No.08/15 U/s 307,120-B IPC and 27 of Arms Act, (18) S.K. Puri P.S. Case No. 260/13 U/s 147, 427, 417, 504, 506 IPC, (19) S.K. Puri P.S. Case No. 301/13 U/s 384, 387 IPC, (20)Pirbahore P.S. Case No. 55/2003 U/s 147, 148, 353, 307 IPC and 27 of the Arms Act, (21) Halsi P.S. Case No. 08/14 U/s 127 RRA.

15. Similarly, I would also like to refer para 3 of Cr. Misc.

no. 42513/2015 which runs as follows:-



“ The petitioner Bipin Kumar Singh was made accused in Sachivalay P.S. Case no. 99/2007 U/s 147,48, 307 IPC in which the petitioner was acquitted, Sachivalay P.S. Case no. 151/2007 under sections 147,148, 307 IPC and Agamkuan P.S. Case no. 174/2015 U/s 147,148, 149, 323, 387, 379, 504, 506 of the IPC”.

16. From perusal of the aforesaid paragraphs, there is no room to doubt about criminal antecedent of the petitioners and they appear to be threat to the society.

17. In the present case, prima facie, it appears that petitioners along with other accused persons, having armed with deadly weapons, entered into the house of the victim and not only forcibly took him in a vehicle but also assaulted him with butt of the rifle. It also, prima facie, appears that prior to his abduction victim had already lodged case in respect of demand of extortion money but even then petitioners and their associates committed the alleged crime.

18. Therefore, the aforesaid facts, prima facie, show that release of the petitioners on bail shall hamper fair trial and, therefore, I do not think it proper to release the petitioners on bail and accordingly, both the above stated petitions stand rejected.

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(Hemant Kumar Srivastava,J)

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