

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18384 of 2016

Arising Out of PS.Case No. -268 Year- 2015 Thana -KHARAGPUR District- MUNGER

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Guneshwar Bind Son of Late Gujlal Bind, resident of Village- Gobbadda,
P.S.- Kharagpur, District- Munger. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjiv Kumar Singh

For the Opposite Party/s : Mr. L.K. Sharma (APP)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 05-05-2016

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

In this case, the petitioner is seeking bail in
connection with Kharagpur P.S. Case No. 268 of 2015,
corresponding to G.R. No. 2279 of 2015, registered for offences
under sections 364(A)/120(B)/34 of the Indian Penal Code.

In the first information report, allegation has been
made that on 12.12.2015 at about 9.00 a.m., in the morning when
the informant reached his school and opened his office, all of a
sudden Ranjan Bind along with other accused persons surrounded
him and asked him to go along with them otherwise he would be
killed. Further allegation has been made, Uttam Bind and Pintu
Bind forcibly took him on the motor cycle, moved towards
Karaghpur and on way, they carried the victim in the house of
Shekhar Ravidas of village-Barhauna. After some time, the



petitioner along with one Binod Kumar came there and told that the activity of the Police has increased. At about 1 o'clock, the accused persons took meal and also provided the meal to the victim and demanded the ransom of Rs. 10,000,00/- (ten lacs) and only thereafter the victim would be released. They were watching the movement of the Police. In the evening, the informant was taken to Sarhi Bahiyar and there he was kept whole night, the accused persons reduced their demand i.e. they demanded Rs.5,00,000/- (five lacs) in place of Rs. 10,000,00/- (ten lacs). The Police was frequently searching the victim. The accused persons were facing heat from the Police pressure and ultimately the victim was released. In the first information report name of petitioner has been mentioned specifically.

The counsel for the petitioner submits that on the day of the alleged incident, the petitioner was present at Munger Civil Court for appearing in Lok Adalat Case No. 216C3/09 and he put his signature itself shows that on the day of occurrence he was not present there.

In the present case the allegation is of kidnapping. The counsel for the petitioner has placed reliance on the judgment reported in (2015) 3 Supreme Court Cases (Cri) 527 is equal to (2014) 16 Supreme Court Cases 508 Neeru Yadav vs. State of

U.P. where the Hon'ble Supreme Court has dealt with the circumstances for granting bail to the accused persons where while granting bail the court would take into consideration the following element.

“In this context, a fruitful reference be made to the pronouncement in Ram Govind Upadhyay v. Surdarshan Singh, wherein this Court has observed that grant of bail though discretionary in nature, yet such exercise cannot be arbitrary, capricious and injudicious, for the heinous nature of the crime warrants more caution and there is greater change of rejection of bail, though, however dependant on the factual matrix of the matter.

“(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire

evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail”

In Chaman Lal v. State of U.P., the Court has laid down certain factors, namely, the nature of accusation, severity of punishment in case of conviction and the character of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and prima facie satisfaction of the Court in support of the charge, which are to be kept in mind.”

It is a case of kidnapping, demanding the ransom from the victim itself shows the severity of the allegation made against the petitioner and other accused persons. Kidnapping is

menace to society taking shape and size of giant, and now, it becomes a method of earning putting victim in fear of threat to his life. The victim was a School Teacher, he had gone to open the school from there he was kidnapped itself indicates the audacity of these persons to have taken the school teacher and kidnapped him.

This Court does not feel inclined to grant bail to the petitioner. Accordingly, this petition is rejected.

(Shivaji Pandey, J)

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