

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35611 of 2016

Arising Out of PS.Case No. -38 Year- 2016 Thana -JOGAPATTI District- WEST CHAMPARAN
(BETTIAH)

Mukesh Kumar, Son of Chandrabhan Chaudhari, R/o Village- Chandraha
Rupwalia, P.S. Bathwaria (Begaha), District- West Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate.

For the Opposite Party/s : Mr. Shantanu Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 28-11-2016

Heard both sides

The petitioner seeks bail in Yogapatti P.S. Case No.
38 of 2016 registered under Section 363 of the Indian Penal Code.
Later on, Sections 364(A), 302, 201, 120B and 34 of the Indian
Penal Code were added.

The informant simply alleged that his seven years old
son had come to his shoe shop situated in Nawalpur market but he
did not return to his house till 5:00 in the evening. The wife of the
informant informed about missing of her son and on the next day
the informant filed a case for missing of his son.

Learned counsel for the petitioner submits that the
petitioner is not named in the F.I.R. Name of the petitioner figured
in the case in the confessional statements of Lalita Devi and her
brother Kranti Sahani. Krishan Chaudhary also disclosed the name



of the petitioner. The petitioner Mukesh Kumar was apprehended and his confession was also recorded. The police showed recovery of the cycle and the pouch containing ether on the basis of the confession made by the petitioner but these articles are not at all relevant in the case. Kalavati Devi also made statements under Section 164 of the Code of Criminal Procedure but she did not disclose the name of the petitioner. Kalavati Devi disclosed the names of Bipin, Kranti and Lalita Devi and said that they brought a cartoon containing the dead body of the boy and kept it under her cot. Thereafter the dead body was taken to somewhere else. It is further submitted that save and except the confessional statements of co-accused and the petitioner, no tangible material has been collected against the petitioner. Similarly situated accused persons, namely, Kranti Sahni and Lalita Devi (sister of Kranti Sahni) have already been enlarged on bail and case of the petitioner stands on the same footing. It is further submitted that the prayer for bail of Raj Kishore Sahani and Mamta Devi has been rejected vide order dated 09.08.2016 passed in Cr. Misc. No. 24683/2016.

On the other hand, learned A.P.P. has vehemently opposed the prayer for bail and submitted that in pursuance of the confession made by Bipin Sahani, the SIM of Mobile No.



7352582384 was recovered. Bipin Sahni demanded ransom of rupees 15 lacs from the father of the boy. Lalita Devi confessed her guilt and disclosed the names of Bipin Sahani, Mukesh (the petitioner), Kranti and others and stated that they all brought the boy, killed him and threw the dead body in a canal. The petitioner was also apprehended and he confessed his guilt in Para 62 of the case diary. On the disclosure of the petitioner, the cycle on which the dead body was carried and the pouch in which ether was brought were recovered. Krishna Chaudhary also confessed his guilt and disclosed the name of the petitioner.

Perused the records. It appears that of course the petitioner is not named in the F.I.R. First of all, Bipin Sahni was apprehended. It appears from Para 22 of the case diary that he disclosed the names of the petitioner and others. Bipin Sahni was apprehended on 21.02.2016 and he confessed his guilt and disclosed the entire manner of occurrence as well as the name of the petitioner. Thereafter, Lalita Devi was apprehended. She also confessed her guilt and disclosed the names of Kranti, Mukesh (the petitioner), Bipin and others. The SIM from which ransom was demanded was recovered from the possession of Bipin Sahni. The petitioner is said to have closed the mouth of the deceased boy, aged about 7 years, and after his death he carried the boy to a



canal where Raj Kishore Sahni is alleged to have cut the dead body into pieces and threw the same into the canal. Of course, it appears that two of the accused persons, namely, Lalita Devi and Kranti Sahni have already been granted bail but, at the same time by the same Bench, the prayer for bail of Raj Kishore Sahni and Mamta Sahni has been rejected vide order dated 09.08.2016 passed in Cr. Misc. No. 24683/2016. The case is very heinous in which a 7 years old boy was kidnapped and brutally killed for ransom.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on bail in Yogapatti P.S. Case No. 38 of 2016 at this stage. Accordingly, the same is rejected.

The trial court is directed to hold the trial on day-to-day basis and conclude the same within nine months from the date of receipt / production of this order.

The Superintendent of Police, Bettiah, West Champaran is directed to ensure attendance of all the witnesses of Yogapatti P.S. Case No. 38 of 2016 so that the trial must be concluded within nine months.

It appears that the case has not yet been committed to the Court of Sessions. The A.C.J.M. II, Bettiah, West Champaran, who is in seisin of the case, is directed to commit the case to the

Court of Sessions forthwith and the learned Sessions Judge himself or, on transfer, any other Additional Sessions Judge must hold the trial on day-to-day basis and conclude the same within nine months.

(Prabhat Kumar Jha, J)

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