

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.62097 of 2018

Arising Out of PS. Case No.-136 Year-2018 Thana- BIHARIGANJ District- Madhepura

Lalo Kumar @ Lalo Mehta, Son of Dinesh Mehta, Reident of Village-
Bajjnathpur, P.S.- Bihariganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pawan Kumar, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 12-12-2018 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 323,341,363,365,34 of the Indian Penal Code.

The prosecution case got initiated on the basis of written report dated 08.06.2018 submitted by Deep Narayan Yadav @ Bhuti Yadav to the Station House Officer, Bihariganj Police Station to the effect that on 07.06.2018, in the night, the son of the informant, Mandhir Kumar was sleeping at his door. At 01.00 A.M., the son of the informant was kidnapped. The informant could not saw his son in the morning and then search was made. In the meantime, the kidnapped son of the informant made a call to his friend, Sanoj Kumar and conveyed about the



kidnapping and also conveyed about the message being staged on the motorcycle. Thereafter, the informant saw the motorcycle over which a note was staged, which stipulated that the son of the informant Mandhir has been kidnapped and the elder son of the informant Andhir Kumar is the real enemy of the kidnappers, hence, if they wanted to save Mandhir Kumar, they have to save him within twelve hours, otherwise he will be killed. Earlier, on the mobile of the elder son of the informant there was a call made and some threat was given. Earlier about one month prior to the occurrence, the elder son of the informant Andhir along with Shankar Kumar and Rupesh Kumar were sitting on a tractor and a bicycle of Andhir Kumar was parked nearby. In the meantime, two unknown persons came on a motorcycle and objected for parking the bicycle on the road and threw the bicycle into a ditch and started assaulting the elder son of the informant. The informant along with others also scuffled with them for their safety. In the meantime, nearby people came and pacified the issue. Subsequently, the said two persons, namely, Bunt Kumar and Lalo Mehta came and started making assault. On enquiry, Bunt Kumar disclosed the name of one of the persons as Randhir Kumar, but failed to disclose the name of other person. Subsequently, statement of



the victim was recorded under Section 161 of the Cr. P.C. wherein, he has not disclosed the name of the petitioner, but after one and half month, when the statement of the victim was recorded under Section 164 of the Cr. P.C., he disclosed the name of this petitioner and others, for their involvement in the occurrence.

It is submitted by learned counsel for the petitioner that due to some dispute related to parking of the vehicle on the road, the accusation has been levelled against the petitioner. It is further submitted that it is surprising that the FIR bears the signature of the victim as a witness, but the FIR does not disclose as to how the victim returned after being kidnapped. If the victim on his own returned, then naturally it appears that the accusation of kidnapping has wrongly been levelled against the petitioner in the background of the scuffle between the parties at earlier point of time. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State after going through the case diary that the petitioner is named in the FIR and the FIR bears the signature of the victim Mandhir Kumar, but it does not disclose the fact as to how he returned back and



when he did he return, then there was no occasion of lodging the FIR with accusation of kidnapping against the petitioner. However, in the statement under Section 164 Cr.P.C., the victim has named the petitioner to have participated in the said occurrence.

Considering the inconsistency and unreasonableness between the FIR and statements of the victim recorded under Section 161 of the Cr. P.C. and Section 164 of the Cr. P.C., coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Uda-Kishunganj, Madhepura, in connection with Bihariganj P.S. Case No.136 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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