

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.366 of 2017

Arising Out of PS. Case No.-159 Year-2015 Thana- HAJIPUR SADAR District- Vaishali

Monu Kumar, son of Late Harendra Thakur, Resident of Village- Jaitiya
Sonepur, P.S.- Sonepur, District- Saran.

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Patna.
2. The Deputy Director General of Police, Government of Bihar, Patna.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Sub Divisional Police Officer, Hajipur, Vaishali.
5. The Investigating Officer of Hajipur Sadar, P.S. Case No.15/2015 Hajipur, Vaishali.
6. Chandradeo Singh, son of Late Nand Lal Singh, Resident of Village- Bhadwas, P.S.- Mahua, Distt- Vaishali.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi, Advocate
For the Respondent/s : Md. Iqbal Asif Niazi, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 24-07-2019

The petitioner has been made accused in connection with Hajipur Sadar P.S. Case No.159 of 2015 dated 11.04.2015 registered inter alia under Section 364 of the Indian Penal Code.

2. The first information report of Hajipur Sadar P.S. Case No.159 of 2015 was registered pursuant to a written report submitted by one Chandradeo Singh on 11.04.2015 to the Officer-in-charge Sadar Police Station Hajipur, Vaishali. In his written report, he has alleged that his son Upendra Kuamr was Branch Manager in the Central Bank of India, Sonepur Branch. On



09.04.2015, at about 5:00 a.m., when he went out of his house for morning walk, he did not return. He made inquiry regarding his whereabouts, but without any success. He stated that he has reasonable apprehension that his son might have been kidnapped by some unknown person for ransom.

3. On the basis of the said written report, after institution of the first information report against unknown accused persons, investigation commenced. In course of investigation, the name of the petitioner figured as one of the persons involved in kidnapping of informant's son.

4. On completion of investigation, the police have already submitted charge-sheet against the petitioner under Sections 365, 364/34 and 120B of the Indian Penal Code vide Charge-sheet No.219 dated 15.07.2015.

5. On receipt of the police report, cognizance of the offence was taken in the year 2015 itself.

6. The petitioner has filed the instant application on 20.03.2017 under Articles 226 and 227 of the Constitution of India for directing the respondent authorities to recover the informant's son Upendra Kumar and arrest the real accused persons, who have participated in his kidnapping.



7. Learned counsel for the petitioner submitted that the petitioner is absolutely innocent and had no role in abduction of the son of the informant. He contended that since the police have failed to recover the victim, the actual evidence regarding participation of the accused persons in commission of the crime could not be unearthed.

8. *Per contra*, learned counsel appearing for the State submitted that in course of investigation the victim could not be traced, but sufficient evidence has been collected by the investigating officer to show the complicity of the petitioner in commission of kidnapping of the son of informant. He contended that by way of filing the instant application the petitioner is trying to create defence for himself in the criminal trial pending against him.

9. I have heard learned counsel for the parties and carefully perused the record.

10. Admittedly, the case of kidnapping was registered against unknown. In course of investigation, name of the petitioner transpired as the person who was involved in commission of the offence. On completion of investigation, the police submitted their report under Section 173(2) of the Code of Criminal Procedure vide charge-sheet no.219 of 2015 dated 15.07.2015.



11. The charge-sheet has been brought on record as Annexure-2 to the application. On perusal of the same, I find that though the investigation was completed against the petitioner, the investigation as against others was kept open. Altogether 23 persons have been cited as witness to the charge-sheet.

12. Since the petitioner is facing trial in connection with a case of kidnapping in which the investigation disclosed his involvement in commission of the crime, the writ petition filed by him for direction to the respondents to recover the victim is nothing but an effort to create defence for himself.

13. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.07.2019
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