

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.428 of 2019**

Arising Out of PS. Case No.-130 Year-2018 Thana- FATUA District- Patna

Govinda Kumar, S/o Sri Raj Kishore Singh @ Sri Rajkishore Sao, Resident of Mohalla/Village- Old Jakkan pur, Ram Lakhan Mahto Flat, P.S.- Jakkan pur, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Senior Superintendent of Police, Bihar, Patna.
3. The Superintendent of Police (Rural) Bihar, Patna. .
4. The Investigating Officer Fatuha P.S. Case No. 130/2018.
5. The Officer-in-Charge, Fatuha, P.S. Case No.130/2018.
6. Amit Kumar
7. Ritesh Kumar
8. Dhiraj Kumar
- All are sons of Shiv Shankar Sao.
9. Anita Devi, Wife of Pappu Sao
- All are resident of village- Govindpur, P.S.-Fatuha, District-Patna.

... .. Respondent

**Appearance :**

For the Petitioner/s : Mr. Bhim Sen Prasad, Advocate  
For the Respondent/s : Md. Nadim Seraj, GP-5

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 25-02-2019**

By way of the instant writ petition, the petitioner has prayed for directing the respondents to arrest respondent nos. 6 to 9 in connection with Fatuha P.S. Case No.130 of 2018 dated 12.03.2018 registered under Sections 304B/34 and 120B of the Indian Penal Code.

2. It is submitted by the learned counsel for the petitioner that though the petitioner had lodged the aforesaid Fatuha P.S. Case No.130 of 2018 dated 12.03.2018, the respondent



nos. 6 to 9 have not been arrested by the police so far. On query as to whether any warrant of arrest has been issued against them in connection with said police case, learned counsel for the petitioner submitted that he has no instruction in this regard.

3. In my considered opinion, only because a person is named in the first information report, the Court would not issue any direction for arrest of those persons. Since the case is under investigation, to arrest or to not arrest an accused named in the first information report is within the exclusive domain of the police who have got power to arrest an accused suspected to be involved in a cognizable offence even without warrant of arrest under Section 41 of the Code of Criminal Procedure. There may be a case in which innocent persons may be implicated in the criminal case. The police in course of investigation may not like to arrest such person. On completion of investigation, the police may submit a report that those persons named in the first information report are innocent. There may be a case where even informant may turn into the category of accused in the same police case. In such cases also, it will be highly unfair to arrest a person, who may be innocent and whose name is maliciously be given by the informant in the first information report.



4. It would be highly unsafe for a Court to issue direction while exercising extraordinary writ jurisdiction to the respondent authorities to arrest a person named in the first information report.

5. The writ petition, being devoid of any merit, is dismissed.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

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