

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.474 of 2019

Arising Out of PS. Case No.-49 Year-2018 Thana- MOHIUDDIN NAGAR District-
Samastipur

=====

Dr. Amit Kumar Singh, Son of Ajit Kumar Singh, resident of village-
Mohiuddin Nagar, P.S.- Mhiuddin Nagar, District- Samastipur

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Darbhanga Zone, Darbhanga.
4. The Deputy Inspector General of Police, Darbhanga Range, Darbhanga.
5. The Superintendent of Police, Samastipur.
6. The Deputy Superintendent of Police, Patory, District- Samastipur
7. The Inspector of Police Patory - Circle, District- Samastipur.
8. The Officer Incharge, Mohiuddin Nagar, District- Samastipur.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Deepak Kumar Singh, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 06-03-2019

Heard learned counsel for the petitioner and

learned counsel for the State.

2. The petitioner is informant of Mohiuddin Nagar P.S. Case No. 49 of 2018 registered under Sections 323, 337, 341, 342, 379, 387 and 504 read with 34 of the Indian Penal Code. He has filed the present writ petition with a prayer to direct the respondent nos. 2 to 8 to arrest the accused persons named in the First Information Report (for short 'FIR').



3. Learned counsel for the petitioner has submitted that though the FIR was instituted on 17.04.2018 by the informant, till date, none of the named accused has been arrested by the police. The Investigating Officer of the case being in collusion with the accused persons is deliberately sitting tight over the matter as a result of which the accused persons are emboldened and they may again took law in their own hands.

4. On the other hand, learned counsel for the State submitted that in case the investigation is still pending, it would not be proper for this Court to issue any direction to the respondents to arrest the accused persons named in the FIR. He contended that though Section 41 of the Code of Criminal Procedure gives power to the police to arrest any person accused in a cognizable offence even without a warrant of arrest, it is not necessary that in each and every case, the police must arrest the named accused persons. He pleaded that there may be a case of false implication. Under such circumstance, any order passed by this Court to arrest the accused would not be in the interest of justice.

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



6. It is true that Section 41 of the Code of Criminal Procedure confers power upon the police to arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists that he has committed cognizable offence. However, such arrest would be warranted only in order to prevent such person from committing any further offence or for proper investigation of the offence or to prevent such persons from causing the evidence of the offence to disappear or tampering with the such evidence in any manner or to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer or unless such person is arrested, his presence in the Court whenever required cannot be ensured. However, in case of non-availability of the aforesaid circumstances, only because of a person is named in the first information report, the police are not expected to mechanically arrest any person named in the first information report with allegation to have committed a cognizable offence.

7. It is not known what are the incriminating materials against the petitioners named in the FIR or whether



for the purpose of investigation, the police require their arrest. The case is still under investigation. To hold investigation into cognizable offence is the exclusive domain of the police. At this stage, the Court has no role to play.

8. In that view of the matter, it would not be proper for this court to issue any direction to the respondents to arrest the accused persons named in the FIR.

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

(Ashwani Kumar Singh, J.)

Sanjeet/R.Ranjan-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.03.2019
Transmission Date	12.03.2019

