

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17693 of 2019

Arising Out of PS. Case No.-94 Year-2017 Thana- PATORI District- Samastipur

Vikram Kumar @ Vikram Kumar Yadav, son of Rambali Rai, R/o village-
Madhaul Khurd, P.S.- Desri (Chainpur O.P), Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Bhushan Prasad

For the Opposite Party/s : Mr.Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 17-07-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with
Patori (Mohanpur) P.S. Case No.94 of 2017 for the offence
punishable under Section 364/34 of the Indian Penal Code.

The allegation against the petitioner, as mentioned in
the FIR is that the informant is owner of hardware shop at
Mohanpur and where his brother, who was coming after shutting
the shop down to his house, was kidnapped in between
Patharghat to Patel Chowk.

Learned counsel for the petitioner submits that
petitioner is not named in the First Information Report and the
boy has been recovered and has come back and disclosed the
name of the person, who kidnapped him and also disclosed the



name of some accused persons before the police in his statement taken under Section 161 of Cr.P.C. Learned counsel further submits that though the name of the petitioner had surfaced in this case but his parentage and residence was not mentioned.

Learned counsel for the petitioner further submits that thereafter the statement of the victim was recorded under Section 164 Cr.P.C. in which victim had disclosed the name of the petitioner but he stated that one Vikram Kumar, of Dalsingsarai was involved in the offence. Learned counsel further submits that thereafter co-accused, Raushan Kumar, was arrested and he disclosed the name of the petitioner and his parentage as well as the the residence for the petitioner at Manjhaul, District Vaishali. Learned counsel accordingly, submits that the petitioner does not belong to Dalsingsarai as stated by the victim in his statement under Section 164 Cr. P.C. and his name and parentage and residence have been disclosed by the co-accused in his confessional statement before the police. Learned counsel for the petitioner further submits that main co-accused Pam Pam Chaudhary @ Mukesh Kumar has been granted anticipatory bail by this Court in Cr. Misc. No.43823 of 2017.

On the other hand, learned counsel for the State



vehemently opposes the prayer for bail and referring to the case diary has submitted that there are altogether nine accused persons, the petitioner and some other accused persons are absconding for a long time inasmuch as the FIR was lodged in the year 2017. Learned counsel further submits that one Pinki Devi has been granted regular bail by this Court in Cr. Misc. No.25633 of 2017, one Anil Kumar Rai @ Birbal whose regular bail was also rejected in Cr. Misc. No.29525 of 2017, one Pintu Rai whose regular bail in Cr. Misc. No.29237 of 2017 has already been rejected by this Court, another accused persons, Chandan Jha has been released on regular bail vide order passed in Cr. Misc. No.31394 of 2017 and Pinki Devi and Anil Kumar both have been convicted and they have preferred Appeal before this Court in Cr. Appeal(DB) No.84 of 2018 and 82 of 2018 which are pending, however, their prayer for suspension of sentence has already been rejected against which Anil Kumar has preferred SLP which has also been rejected.

Learned counsel for the State further submits that in the First Information Report, no person has been named, however, the above named accused persons are involved on the basis of investigation and statement made by another accused persons.



Learned counsel for the State further submits that anticipatory bail granted to Mukesh Kumar @ Pam Pam Choudhary by this Court did not consider all these aspects and further that petitioner is absconder whose TI parade and custodial interrogation is necessary inasmuch as one of the co-accused persons has disclosed the name of petitioner in his statement and has vividly explained the events of kidnapping before the police and specifically disclosed the name of the petitioner on which custodial interrogation of the petitioner will be essential. Learned counsel for the State in support of his submission has also relied upon judgment of Hon'ble Supreme Court reported in **(2012) 8 SCC 730** and **(2014)2 SCC 171** and submits that the process under Section 82 and 83 have also been issued against the petitioner and in view of the judgments of the Hon'ble Supreme Court, this Court should refrain from granting anticipatory bail to the petitioner.

After having heard learned counsel for the petitioner as well as learned counsel appearing on behalf of the State and taking into consideration the fact that the petitioner's name was disclosed immediately after the victim was recovered from the custody of his captors and only discrepancy appears to be of the place of residence of the petitioner, however, the co-accused



before the police has vividly explained the circumstances of kidnapping of the victim which appears to be serious in nature and further that process under Section 82 and 83 against the petitioner has already been issued, in my opinion, the custodial interrogation of the petitioner in the facts of the matter is necessary.

Accordingly, I am not inclined to grant anticipatory bail to the petitioner and the same is hereby rejected.

(Anil Kumar Sinha, J)

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