

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.901 of 2019

Arising Out of PS. Case No.-408 Year-2018 Thana- MANER District- Patna

Shrawan Kumar, male, aged about 21 years, Son of Late Raghunath Rai,
resident of Village - Darweshpur, P.S.- Maner, District - Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Home Department, Govt. of Bihar, Patna.
2. The Inspector General of Police, Home Department, Govt. of Bihar, Patna.
3. The Deputy Inspector General of Police, Patna Region, Patna.
4. The Superintendent of Police (West), Patna.
5. The Deputy Superintendent of Police, Danapur, Patna.
6. The S.H.O., Maner Police Station, District - Patna.
7. Shakti Kumar Singh (S.I.) Investigation Officer, Police Station Maner, District - Patna.
8. Vijay Kumar Son of Kailash Rai Resident of Village - Jirakhan Tola, Tata Colony, P.S.- Maner, District - Patna.
9. Manoj Kumar @ Nirala Son of Late Bhrigunath Singh, Resident of Village - Darweshpur, Jirakhan Tola, P.S.- Maner, District - Patna.
10. Sudeshwar Rai Son of Budhan Rai Resident of Village - Darweshpur, Jirakhan Tola, P.S.- Maner, District - Patna.

... .. Respondents

Appearance :

For the Petitioner : Mr. Ashok Kumar Singh-Advocate
For the Respondents : Mr. Sheo Shankar Prasad-SC-8

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

05-11-2019

Heard learned counsel for the petitioner and the
State.

2. This application under Articles 226 and 227 of
the Constitution of India has been filed by the petitioner with a
prayer to direct the respondent nos.1 to 7 to arrest the private
respondent nos.8 to 10 in Maner P. S. Case No.408 of 2018
dated 12.08.2018 registered inter alia under Section 307 of the
Indian Penal Code and Section 27 of the Arms Act.

3. Learned counsel appearing for the petitioner



submitted that the petitioner is the informant of the case. His brother was killed by the accused persons on 12.08.2018 at about 7.30 A.M. when he was working in his field. He submitted that respondent nos.8 to 10 are alleged to have opened indiscriminate firing as a result of which, the brother of the petitioner sustained gunshot injury and in course of treatment, he died. He contended that the police are not sensitive and committed to the investigation of the case. They have not yet arrested the main assailants of the deceased. According to him, the petitioner also has threat to his life at the hands of the absconding accused persons.

4. On the basis of the aforesaid submissions, he contended that unless a direction is issued by this Court to arrest the respondent nos.8 to 10, the police would not arrest them.

5. Per contra, learned counsel appearing for the respondents submitted that there is no truth behind contention of the petitioner that the police are not sensitive and committed to the investigation of the case. According to him, the investigating agency is discharging its duties in accordance with law. It has taken all possible steps to arrest the accused persons named in the F.I.R. He further contended that save and except, the ocular allegation made by the petitioner, there is no other material to



suggest that the police are not investigating the case properly or that they are reluctant to arrest respondent nos.8 to 10.

6. A counter-affidavit has also been filed on behalf of the respondent nos.4 to 6 wherein it is stated that the evidences collected so far in course of investigation transpired the involvement of the accused persons namely, Ram Bishun Singh, Ashok Kumar @ Tunni, Ganesh Kumar @ Ganesh Singh, Mutur Rai @ Nitesh, Yogendra @ Yogeshwar, Vikas Kumar, Santosh Kumar and Vishal Kumar and they have already been charge-sheeted vide charge-sheet no.305 of 2018 dated 09.11.2018. The further investigation is continuing against others.

7. It is further stated in the counter-affidavit that in course of investigation, some of the accused persons approached this Court and were enlarged on bail. They are Buddhan Singh Rai, Pramod Rai @ Pramod Kumar, Binod Rai, Suresh Rai, Shiv Mahadev Rai and Raj Kishore Rai @ Pradeep Rai.

8. As far as the private respondents of the present case are concerned, it is stated in the counter-affidavit that investigation is continuing against them. The Investigating Officer finding their involvement in the commission of crime



made efforts to apprehend them. However, they could not be apprehended and accordingly, at the request of the Investigating Officer, non-bailable warrant of arrest was issued against them vide order dated 23.07.2019 by the learned Judicial Magistrate, 1st Class, Danapur.

9. Having heard the parties and perused the materials on record, I find that there is no dispute to the fact that the F.I.R. was registered against eighteen accused persons. Out of the eighteen accused persons, eight have already been charge-sheeted. Apart from the eight charge-sheeted accused persons, six others named in the F.I.R. have surrendered before the court and have been granted bail. The investigation is still continuing against the three private respondents. However, finding their involvement in the commission of crime when the Investigating Officer failed to apprehend them, he made a request before the court for obtaining non-bailable warrant of arrest against them, which has been issued vide order dated 23.07.2019. The aforesaid facts would suggest that the investigating agency is not sitting tight over the investigation of the case.

10. It is well settled principle of law that the investigation into a cognizable offence is the exclusive domain of police. At this stage, the Court has no role to play. Only in



extraordinary and exceptional circumstances, the Constitutional Courts would be justified in issuing any direction to the investigating agency during the pendency of investigation.

11. An investigation into a cognizable offence is confidential in nature. Any interference by the court, at this stage, would be impermissible especially when there is no material to doubt the bonafide of the investigation.

12. In view of the discussions made above, I am of the opinion that no direction is required to be issued in the present case for arresting the respondent nos.8 to 10.

13. In case, the petitioner apprehends threat to life, he may make proper application before the authorities concerned. In case, any representation in this regard is filed, the concerned authorities shall be required to look into the matter and pass appropriate orders in accordance with law after assessing the threat perception.

14. With the aforesaid observations, the application is disposed of.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.11.2019
Transmission Date	06.11.2019

