

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1034 of 2019

Arising Out of PS. Case No.-10 Year-2019 Thana- MAHILA P.S. District- Muzaffarpur

Nazama Khatoon @ Zarina Khatoon, Wife of Md. Salahuddin Resident of
Mohalla - Banaras Bank Chauk, Nala Road, P.S.- Town, District- Muzaffarpur
... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department pf Home
(Police) Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Tirhut Region, Muzaffarpur
4. The District Magistrate, Muzaffarpur.
5. The Superintendent of Police, Muzaffarpur.
6. The S.H.O. Mahila P.S., District- Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner : Mr. Rajeev Ranjan No.II, Advocate
For the Respondents-State: Mr. Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 08-07-2019

The petitioner is the informant of Mahila P.S. Case No.10 of 2019 registered under Sections 354A, 354D, 363 and 506 read with 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act.

2. On the basis of her written report submitted on 06.03.2019 to the Officer-in-charge of the Mahila Police Station, the aforesaid Mahila P.S. Case No.10 of 2019 was registered against Md. Sharukh and Md. Afroj

3. In the instant application preferred under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for issuance of a direction to the respondents to complete the



investigation of the case and arrest the named accused persons for the ends of justice.

4. The contention of the petitioner is that after institution of the FIR, the police have not taken steps in order to arrest the accused persons named in the FIR. The informant apprehends that the police are in collusion with the accused persons.

5. Learned counsel appearing for the petitioner submitted that after institution of the case, the police are sitting tight over the matter and violating the legal rights of the victim. According to him, the investigating officer has failed to discharge his official duty responsibly.

6. On the other hand, learned counsel for the State submitted that the FIR was instituted in the month of March, 2019 and within four months, the petitioner has rushed to this Court raising suspicion about the bona fide of the investigation. He contended that though it has been pleaded that the investigating agency is not doing its duty sincerely, there is no material to corroborate such pleading. He has further contended arrest is not to be mechanically made only because a person is named in a police case.

7. I have heard learned counsel for the parties.

8. Admittedly, the investigation of the case is pending. Apart from the ocular allegation made by the petitioner that the investigating agency is sitting tight over the matter and is in collusion



with the accused persons, there is no other material to substantiate the claim. An investigation into a cognizable offence is confidential in nature. No inference can be drawn at this stage that the ongoing investigation is not fair or impartial only because the accused persons have not been arrested. The arrest of an accused would depend on several factors, which may transpire in course of investigation. There is no law which mandates that the moment a person is made accused in a criminal case, the police must arrest him.

9. On the contrary, the police have discretion in the matter of arrest under section 41 of the Code of Criminal Procedure. Since an arrest is in the nature of encroachment on the liberty of a person, the power has to be cautiously exercised.

10. Since the matter is under investigation, there is no justification for this Court to issue any direction to the police to arrest anyone named in the FIR, as the same would amount to interference in the investigation of the case.

11. Having regard to the facts and circumstances of the case, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2019
Transmission Date	10.07.2019

