

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1069 of 2019

Arising Out of PS. Case No.-602 Year-2018 Thana- SIWAN MUFFASIL District- Siwan

KAPILDEV YADAV Son of Late Bindeshwari Yadav Resident of Village-
Bhatwaliya, P.S.-Siwan (M), District-Siwan.

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police Station, Patna.
3. The Deputy Inspector of General, Saran at Chapra.
4. The Superintendent of Police, Siwan.
5. The Officer in Charge, Siwan Mufassil Thana, Siwan.
6. Investigating Officer of Siwan Mufassil Thana, Kand Sankhya-602/2018

...Respondent 1st Set.

7. Bhikhari Yadav Son of Timal Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
8. Rajesh Yadav Son of Timal Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
9. Pappu Yadav Son of Garju Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
10. Ujesh Yadav Son of Prabhu Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
11. Kamlesh Yadav Son of Dwarika Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
12. Dwarika Yadav Son of Late Banarsi Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
13. Amerika Yadav Son of Late Ratan Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.
14. Bikhu Yadav Son of Teemal Yadav Resident of Village-Bhatwaliya, P.S-Siwan (M), District-Siwan.

... .. Respondent/s

Appearance :

For the Petitioner :	Mr. Gautam Kumar Yadav, Advocate
For the Respondent-State:	Mr. Prabhat Kumar Verma, AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-07-2019



This application has been filed by the petitioner under Articles 226 and 227 of the Constitution of India for directing the police to arrest the accused-respondent nos. 7 to 14 in connection with Siwan (Mufassil) P. S. Case No. 602 of 2018 registered inter alia under Section 307 of the Indian Penal Code on 25.10.2018. The petitioner has also prayed for issuance of a direction to the respondents to properly investigate the aforesaid Siwan (Mufassil) P. S. Case No. 602 of 2018.

2. It has been submitted by the learned counsel for the petitioner that the prayer for grant of pre-arrest bail to respondent nos. 7 to 14 has already been rejected by this Court on 27.06.2019 but, till date, the police have not apprehended them. He submitted that the police are acting in collusion with the accused persons. Thus, it is necessary that a direction be issued to the investigating agency to investigate the case properly and apprehend the accused persons named in the FIR in connection with Siwan (Mufassil) P. S. Case No. 602 of 2018.

3. Having heard learned counsel for the petitioner and perused the FIR, as contained in Annexure-1 to the present application, I find that the police case is still under investigation. An investigation into a cognizable offence is the statutory right of police. At this stage, the court has no role to play. Merely because,



an FIR has been instituted against a person, the police is not supposed to mechanically arrest him. An arrest pending investigation into a cognizable offence is the discretionary right of the police under Section 41 of the Code of Criminal Procedure. There is nothing on the record on the basis of which it can be presumed that investigation is being done in a fanciful manner.

4. In that view of the matter, I am of the clear opinion that during pendency of a case in exercise of jurisdiction under Article 226 of the Constitution of India, the Court should not issue any direction for arrest of any person. Further, in absence of any material to show that investigation is being done in a fanciful manner, no direction can be given by the Court for holding the investigation in a proper and fair manner.

5. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2019
Transmission Date	16.07.2019

