

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1275 of 2019

Arising Out of PS. Case No.-358 Year-2018 Thana- KUCHAIKOTE District- Gopalganj

ANJALI KUMARI D/o Nawal Kishore Singh Resident of Village - Rampur
Daud, P.S.- Kuchaikot, Distt - Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary Govt. Of Bihar.
2. The District Magistrate, Gopalganj.
3. The Director General of Police, Bihar, Patna.
4. The Superintendent of Police, Gopalganj.
5. The Dy. S.P., Gopalganj.
6. The Officer-in-charge of Kuchaikot Police Station, Gopalganj.

... .. Respondents

Appearance :

For the Petitioner : Mr.Ravindra Kumar, Advocate

For the Respondent-State: Mr.M. Nasrul Huda Khan, SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 04-09-2019

Defects pointed out by the stamp reporter are ignored.

2. Heard learned counsel for the petitioner and
learned counsel for the State.

3. This application under Articles 226 and 227 of
the Constitution of India has been filed by the petitioner for
directing the respondents to properly investigate Kuchaikot P. S.
Case No. 358 of 2018 registered under Sections 354A, 354D and
509 read with 34 of the Indian Penal Code and Section 66 C of the
Information Technology Act.



4. Learned counsel for the petitioner submitted that after institution of the FIR, the police have not taken any steps to arrest the named accused persons in spite of the fact that their application for pre-arrest bail has already been rejected by this Court on 02.04.2019. The inaction on the part of the police is causing mental torture to the victim of the offence.

5. Per contra, learned counsel appearing for the State submitted that save and except oral allegation that the police are not taking proper steps in course of investigation, there is no material on the basis of which the court may arrive at a conclusion that the investigation of the case is unfair or mala fide. He contended that merely because the pre-arrest bail application of the accused persons has been rejected, there would be no necessary fall out that they must be arrested. An apprehension of arrest in connection with a case may compel a person to file an application for pre-arrest bail, but the refusal of pre-arrest bail application does not mean that the accused must be arrested even if the police have no material to suspect his culpability in the offence.

6. Admittedly, the case is pending at the stage of investigation. An investigation into a cognizable offence is prerogative of police. At this stage, normally, the court should not interfere. It is not expected from the court to monitor investigation



process as long as it does not infringe any provision of law. The interference by the court can be made only when it comes to the definite conclusion that there is abuse of power and non-compliance of the statutory provisions. As far as arrest of an accused named in the FIR is concerned, the same depends on several factors. Arrest of an accused is not dependent on the rejection of an anticipatory bail application. It is the discretionary jurisdiction of the police.

7. However, in case, the petitioner is aggrieved by the role of the police in investigation of the case, she may submit representation to the superior police officers under Section 36 of the Code of Criminal Procedure.

8. In case, such a representation is filed by the petitioner, the superior police officials would be required to look into the grievance and take appropriate steps in accordance with law.

9. 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	12.09.2019
Transmission Date	12.09.2019

