

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1217 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Khagaria

Smt. Aruna Devi, D/o Late Mogal Mahton @ Mangal Mahto and W/o Shri Ramakant Mahton, Resident of village- Chhoti Simraha, P.O.- Haripur, P.S.- Alauli, District- Khagaria.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Secretariat, Patna
2. The Inspector General of Police, Bhagalpur Zone, Bhagalpur.
3. The Deputy Inspector of Police, Regional Zone, Munger.
4. The District Magistrate, Khagaria.
5. The Sub Divisional Officer, Khagaria.
6. The Superintendent of Police, Khagaria, District- Khagaria.
7. The Sub-Divisional Police Officer, Khagaria, District- Khagaria.
8. The Officer-in-Charge, Alauli, District- Khagaria.
9. Asharfi Mahton, Son of Late Mogal Mahton @ Mangal Mahton, Resident of village- Chhoti Simraha, P.O.- Haripur, P.S.- Alauli, District- Khagaria
10. Suman Kumar, Son of Shri Asharfi Mahton, Resident of village- Chhoti Simraha, P.O.- Haripur, P.S.- Alauli, District- Khagaria

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Phulen Yadav, Advocate
For the Respondent/s : Md. Nadim Seraj, GP-5

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 27-08-2019

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

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for directing the official respondents to provide security to the life of the petitioner and her other family members as she apprehends danger to her life as also of her family members at the hands of respondent nos. 9 and 10.



3. Learned counsel for the petitioner submitted that the respondent no.9, Asharfi Mahton is the only son of Late Mogal Mahton @ Mangal Mahton from his first wife. After the death of his first wife, petitioner's father Late Mogal Mahton @ Mangal Mahton solemnized second marriage. The petitioner, her two sisters and one brother namely, Rupesh Kumar were born from the second wife of late Mogal Mahton @ Mangal Mahto. Respondent nos. 9 and 10 killed aforesaid Rupesh Kumar on 01.08.2000 for which FIR of Alauli P.S. Case No.84 of 2000 was registered against unknown on the basis of fardbeyan of the petitioner's mother, the second wife of the Mangal Mahton. In course of investigation, the name of respondents no. 9 and 10 transpired as the persons responsible for commission of the offence. The respondent no.9 was arrested but the respondent no.10 absconded. The police submitted charge-sheet against respondent no.9 and the respondent no.10 has been shown as absconder in the police report. On completion of the trial, the respondent no.9 was convicted in the aforesaid case under Sections 302 of the Indian Penal Code and 27 of the Arms Act and was awarded life imprisonment vide judgment and order dated 25.03.2014 passed in Session Trial No.7 of 2003 by the learned Additional District and Sessions Judge, Khagaria. The appellate court granted bail to the respondent no.9. The respondent no.10 is still absconding and has never been put on trial. He contended that in



order to grab the properties, respondent no. 9 and 10 are regularly threatening the petitioner and she reasonably apprehends that like her brother, she may also be eliminated. In this regard, she has submitted representations to the Officer-in-Charge of Alauli Police Station and the Superintendent of Police, Khagaria, but the representations went unheeded. He submitted that in view of the continuous threat to the life of the petitioner at the hands of respondent nos. 9 and 10, the official respondents be directed to provide police protection.

4. On the other hand, learned counsel appearing for the State submitted that threat perception has to be assessed by the District Level Security Committee. According to him, there is a District Level Security Committee in each districts of the State of Bihar and the said Committee is responsible for assessing threat perception and providing security to the deserving persons. He has further contended that in case any person is aggrieved by the decision of the District Level Security Committee, he has a remedy to file an appeal before the State Level Security Committee.

5. I agree with the submission of the learned counsel for the State that threat perception can not be assessed by the Court. If the State has formed a District Level Security Committee, the petitioner should approach the same at the first instance. In case a representation is filed within four weeks from today, the District Level Security Committee shall be required to examine the same



with full sensitivity and dispose of her representation by passing a reasoned and speaking order within six weeks from the date of receipt/production of filing of the representation.

6. In view of submissions made at the Bar, the Superintendent of Police, Khagaria and the Officer-in-charge, Alauli Police Station are directed to personally look into the records of Alauli (Khagaria) P.S. Case No.84 of 2000. In case, respondent no.10 is found absconding since last 19 years, they must take all possible steps to apprehend and produce him before the court so that his trial may be held expeditiously.

7. Registry is directed to send a copy of the order to the Superintendent of Police, Khagaria forthwith.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2019
Transmission Date	NA

