

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18739 of 2020**

Arising Out of PS. Case No.-157 Year-2014 Thana- ALOULI District- Khagaria

Bishwanath Yadav @ Bisho Yadav, Son of Late Ganga Yadav, Resident of
Village - Bakhari Godhiyari, P.S.- Ujiyarpur, Distt- Begusarai.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ajay Kumar, Advocate

For the Opposite Party/s : Mr.Mithlesh Kumar Khare, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 16-12-2020 Heard learned counsel for the petitioner and Mr.
Mithlesh Kumar Khare, learned A.P.P. for the State.

Petitioner in the present case is seeking pre-arrest bail
in connection with Aloli P.S. Case No. 157 of 2014, G.R. No.
1413 of 2014 registered for the offences punishable under
Section 364/34 of the Indian Penal Code.

Earlier vide order dated 16.07.2020 a learned co-
ordinate Bench of this Court has been pleased to grant
provisional bail to the petitioner. The relevant part of the order
dated 16.07.2020 is quoted hereunder for a ready reference:-

“The petitioner seeks bail in anticipation of his arrest
in connection with Aloli P.S. Case No. 157/2014
(G.R. No. 1413/2014) instituted for the offences
under Sections 364/34 of the Indian Penal Code.

It has been submitted on behalf of the petitioner that



from the reading of the First Information Report, it would appear that a suspicion has been raised upon the petitioner and another for having kidnapped the 12 year old son of the informant. It has further been submitted that during the course of investigation, it came to light that the victim boy had gone to Delhi to his brother in law's house, where he stayed for two months. When he came back, his statement under Section 164 Cr.P.C. was recorded after three months of the registration of the First Information Report.

Even the First Information Report was registered after 18 days of the son of the informant going missing from his house. Because of old enmity, it has been averred, the petitioner has been made accused in this case and that too on suspicion. The petitioner is stated to be an Ex-Mukhiya of Bakhri Gudiyari Panchayat and only to tarnish his image the present case has been lodged. The warrant of arrest was issued against the petitioner only 13.12.2018.

Call for the legible/carbon copy of the case diary in connection with above mentioned case from the court of learned Judicial Magistrate-1st Class, Khagaria.

List this case on receipt of the same on 18.08.2020.

In the meantime, the petitioner, above named, is directed to be released on provisional bail, in the event of his arrest or surrender before the court below on furnishing bail bonds of Rs. 10,000/-(Rs. Ten Thousand) with two sureties of like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Khagaria in connection with Aloli P.S. Case No. 157/2014 (G.R. No. 1413/2014), subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure.”



Learned counsel for the petitioner submits that in course of investigation in several paragraphs the Investigating Officer has recorded that the victim boy was staying with his brother-in-law at Delhi. In this connection, learned counsel for the petitioner has referred paragraph '26', '30', '33', '74' and '75' of the case diary. It is submitted that not only the F.I.R. in this case was registered after 18 days, the fact remains that the victim boy was produced for his statement under Section 164 Cr.P.C. three months after his return to home. It is further stated that in his 164 Cr.P.C. statement the victim boy has only said that this petitioner had introduced him to one Arbind but no specific role has been assigned to this petitioner. It is submitted that the implication of the petitioner in this case may be seen in the light of the fact that there is a prior land dispute between the parties and this fact has come in the impugned order as well.

Learned A.P.P. for the State has though opposed the prayer for confirmation of bail of the petitioner as according to him the petitioner is seeking his pre-arrest bail after about six years but then learned counsel for the petitioner has explained that the petitioner got apprehension of his arrest only recently when a warrant of arrest was issued against him on 13.12.2019 (wrongly typed as 13.12.2018 in the order dated 16.07.2020).



Having regard to the facts and circumstances of the case, for the reasons flowing from the submission of learned counsel for the petitioner, this Court confirms the provisional bail granted to the petitioner. Let the petitioner be remained on bail on the same bail bond.

Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

