

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77109 of 2019

Arising Out of PS. Case No.-323 Year-2016 Thana- AAJAM NAGAR District- Katihar

HARMUN, aged about 28 years, Male, Son of Late Juddin, Resident of Village-Joker, P.S.-Azamnagar, District-Katihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Musowir

For the Opposite Party/s : Mr.Madhuri Lata

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 16-03-2020 Heard learned counsel for the petitioner, learned counsel for the informant and the learned Additional Public Prosecutor.

The petitioner seeks bail in Azamnagar P.S. Case No.323 of 2016, registered under Sections 147, 148, 149, 366(A) and 364 of the Indian Penal Code.

The informant filed complaint case being Complaint Case No.2101 of 2016 on 28.10.2016 for the occurrence said to have taken place on 17.09.2016. The informant alleged in her complaint petition that the petitioner and others forcibly entered into her house in the mid of night and assaulted the informant and his family members. The accused persons kidnapped the daughter of the informant on the order of the petitioner, Harmun.



Learned counsel for the petitioner submits that the petitioner is next door neighbour of the informant. The occurrence took place on 17.09.2016 but the FIR was lodged on 28.10.2016. There is no plausible explanation to lodge the FIR after delay of more than one month that too when the daughter of the informant was kidnapped. It is further submitted that even during the course of investigation most of the witnesses have doubted the veracity of statement of the informant about kidnapping of her daughter. It is further submitted that of course there is allegation of kidnapping on the order of the petitioner and the victim is still traceless, but the informant and her family members have concealed the victim only with a view to implicate the petitioner and others in a serious case on account of some enmity. The petitioner is in jail since 27.09.2019 for no fault on his part and thus, the petitioner deserves bail.

The learned Additional Public Prosecutor and the learned counsel for the informant vehemently opposed the prayer for bail and submitted that the victim is still traceless. The police has not yet submitted final form. The investigation is still going on. The informant made satisfactory explanation for instituting the case after much delay. The informant disclosed that she was under shock on account of kidnapping of her minor



daughter but she along with her husband went to the police station on the next day of the occurrence. The police assured them for institution of the case after preliminary enquiry but no case was registered. The informant approached the Superintendent of Police but that too went in vain and ultimately the informant lodged the complaint case.

From perusal of the records, it appears that the only allegation against the petitioner is that on the order of the petitioner and one Rabbul, the daughter of the informant is said to have been kidnapped. It further appears that the occurrence is said to have taken place at about 11 in the night but there appears no satisfactory explanation for institution of the case after more than one month by filing a complaint petition in the court. The complainant/informant did not make any specific allegation of either assault or kidnapping against the petitioner and she alleged that on the order of the petitioner, her daughter was kidnapped by others. Even during the course of investigation, some of the witnesses doubted the truthness of kidnapping of the daughter of the informant.

Taking into consideration all the facts and nature of allegations made against the petitioner and the fact that the petitioner is in jail since 27.09.2019, the petitioner, namely,



Harmun is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-VI, Katihar, District Katihar in connection with Azamnagar P.S. Case No.323 of 2016.

(Prabhat Kumar Jha, J)

S.KUMAR/-

U		T	
---	--	---	--

