

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29720 of 2021

Arising Out of PS. Case No.-310 Year-2020 Thana- GAYA MUFASIL District- Gaya

DEEPAK KUMAR @ SHASI RAJ S/o Mithilesh Singh Resident of Village-
Sanaut, P.S.- Gaya Muffasil, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 21747 of 2021

Arising Out of PS. Case No.-310 Year-2020 Thana- GAYA MUFASIL District- Gaya

MD. CHHOTU S/O MD. ANWAR R/O VILLAGE KIRANIGHAT, P.S.
KOTWALI, DISTRICT GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 29720 of 2021)

For the Petitioner/s : Mr.Ravindra Kumar

For the Opposite Party/s : Mr. Raj Kishore Singh

(In CRIMINAL MISCELLANEOUS No. 21747 of 2021)

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Ms. Shaheen Begum

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

4 23-02-2022 Heard learned Counsel for the petitioners and learned
Additional Public Prosecutor for the State, in both the cases.

The petitioners seek regular bail in connection with
Sessions Trial No. 45 of 2021/19 of 2021, arising out of Gaya
Mufassil Police Station Case No. 310 of 2020, registered for the
offences punishable under Sections 364-A/34 of the Indian
Penal Code.

The allegation, as per the First Information Report, in



nut shell, is that the informant received a phone call on his mobile and the caller made him talk to his brother, Amit Kumar, and the caller informed the informant that his brother has been kidnapped and he was in the captivity of the caller and demanded ransom of Rs. 3,00,000/- to be paid at a particular place, failing which his brother would be killed and the brother of the informant had informed on phone that about 5-6 unknown persons had kidnapped him on the point of pistol near Gauri Ganga Higher Secondary School.

Learned Counsel for the petitioners submit that the petitioners have falsely been implicated in this case by the police with oblique motive and they have been arrested, along with the fire arms, at 9 PM, on 22.08.2020 itself at six-lane bridge at the time when the petitioners allegedly tried to contact the informant to receive ransom. They further submit that the informant was also present with the police at the six-lane bridge. They further submit that the First Information Report was lodged at 03:30 PM on 22.08.2020 and the petitioners were arrested on the same day at about 9 PM from the six-lane bridge along with the fire arms and they were taken into custody and the victim has been released in the morning of 23.08.2020. They further submit that when the victim was in the captivity of



the kidnappers in the night of 22.08.2020, then, there was no question of the petitioners being present and releasing the victim from their captivity in the morning of 23.08.2020. They further submit that there is no independent witness of the alleged kidnapping and the only witnesses are the close relatives of the informant and the victim has not been made a charge sheet witness by the police. They further submit that in course of investigation, it has come to light that the victim is a cyber criminal and he was involved in the cyber crime, relating to ATM fraud.

On the other hand, learned Additional Public Prosecutor, referring to the contents of the case diary, submits that 5-6 unknown persons had kidnapped the informant's brother on the point of pistol and in course of investigation, on the basis of CDR/Tower location of mobile no. 7061247430 and on the basis of the information given by the Technical Cell, a raiding team was constituted under the leadership of the Station House Officer, Mufassil Police Station, in which the informant, Chotu Kumar, was also included as a member of the team in course of raid, and information was given by the Technical Cell at about 08:30 PM that the kidnappers called the informant Chotu Kumar for ransom and directed him to come at six-lane



bridge. He further submits that as per the information received from the kidnappers on phone, a trap was led by the police near the six-lane bridge and in the meantime, two suspicious persons came there, who stopped the informant and started talking about ransom and when the police was trying to apprehend them, one of the persons started firing from the pistol on the police, but the police party did not receive any injury and the accused persons, i.e the petitioners, were apprehended, and from the possession of the petitioner, Deepak Kumar, one country-made pistol, along with two live cartridges and from the possession of the petitioner Md. Chhotu, two 7.65 live cartridges were recovered. He further submits that on the basis of confessional statement of the petitioner Md. Chhotu, a goat-farm at S. S. Colony, was raided and the police recovered the victim from that place, as referred in paragraphs 17 and 18 of the case diary and the statement of the victim, under Section 164 of the Code of Criminal Procedure, 1973, was recorded, in which he has narrated the entire story of his kidnapping vividly. He further submits that the Alto car, which was used by the kidnappers in the kidnapping of the victim, was also recovered from the house of co-accused Prem Kumar. He next submits that the petitioners have also got criminal antecedent inasmuch as the petitioner



Deepak Kumar is involved in Mufassil Police Station Case No. 243 of 2019, registered for the offences punishable under Sections 341/323/363/364/427/379/504/506 of the Indian Penal Code and petitioner Md. Chotu is also involved in Chandauti Police Station Case No. 112 of 2020, registered for the offences punishable under Sections 504/506/307 of the Indian Penal Code and Section 27 of the Arms Act.

Regards being had to the submissions advanced on behalf of the parties and taking into consideration the statement of the victim under Section 164 of the Code of Criminal Procedure, 1973 and the fact that the victim was recovered by the police from the goat-farm and further in a trap led by the police, along with the informant, the petitioners, who had arrived there for the purpose of receiving ransom, have been arrested at the spot along with the fire arms and this Court is not holding mini trial as such will not appreciate the evidence at this stage and the allegation is serious in nature, I am not inclined to grant regular bail to the petitioners.

These applications are, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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