

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.623 of 2022

Arising Out of PS. Case No.-299 Year-2017 Thana- KIUL RAIL P.S. District- Lakhisarai

Manoj Kumar Son Of Late Radhe Shyam Mehta R/O- Mohalla- Santar Ward
No. 13 P.S.- Lakhisarai District- Lakhisarai

... .. Petitioner

Versus

1. The State Of Bihar Through The Secretary, Home Department, Government Of Bihar
2. The Secretary, Home Department, Govt. Of Bihar, Patna
3. The Adg (Railway) Bihar, Patna
4. The Dig (Railway), Patna
5. The Superintendent Of Rail Police, Jamalpur
6. The Sho Grp Rail P.S. Kiul.
7. Bablu Ram@ Amit Kumar Son Of Shyam Kishore Vidyarthi

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Deepak Sahay Jamuar, Advocate
For the Respondent/s : Mr.Deepak Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 24-11-2022 Mr. Deepak Kumar, learned AC to GP-4 for the

State has placed before this Court a copy of the resolution as contained in Memo No. 104 dated 13.01.2020 issued by the government whereby the Bihar Witness Protection Scheme, 2018 (hereinafter referred to as the “Scheme of 2018”) has been notified. It has been published in official gazette and copy of the same has been forwarded to the Registrar General of this Court.

According to this Scheme of 2018, the “competent



authority” as defined under sub-clause (c) of clause 2 would be a permanent committee chaired by the District and Sessions Judge. The Superintendent of Police shall be the Member and the District Prosecution Officer shall be membered as Secretary of the Committee.

The Scheme of 2018 provides for the procedures for submission of an application seeking protection.

Learned counsel for the State submits that in this case the deceased had not applied for protection in the prescribed form and there was no application before the competent authority, therefore no step could be taken to provide protection to the deceased who was a material witness of the case.

Learned counsel for the petitioner submits that on a bare perusal of this whole scheme, it would appear that under clause 12 a duty has been cast upon the I.O. and the court to provide the information with regard to the witness protection scheme and its essential features. It is his submission that in this case the petitioner had submitted a written information in the court of learned Chief Judicial Magistrate, Lakhisarai, however he does not dispute that the



brother of the petitioner was killed on 03.09.2019 and prior to the said date neither his deceased brother nor the petitioner had applied for any protection.

There being an un-controverted submission of the State that prior to the killing of the brother of the petitioner there was no information to the jurisdictional police station saying that there was any threat perception to the brother of the petitioner and that no application was made before the competent committee for providing protection, this Court is of the considered opinion that the questions framed by this Court earlier in this case would not require consideration in the facts of this case.

In the present writ application the petitioner is praying for a direction to the official respondents to properly investigate the Rail Thana Kiul P.S. Case No. 299 of 2017 instituted on 13.12.2017. He is also praying for arrest of respondent no. 7 who had allegedly fired upon the brother of the petitioner.

Learned counsel for the State submits that the Superintendent of Police, Lakhisarai has formed a Special Team for arrest of respondent no. 7 who is presently



absconding.

In the counter affidavit a statement to this effect has been made. As regards the claim of the petitioner that he and his family members are living their life in full of fear due to free movement and they are receiving threatening by the accused persons including respondent no. 7, the Superintendent of Police, Lakhisarai has taken a stand that this was never informed to him.

This Court is of the considered view that once this fact has come to the notice of the Superintendent of Police, Lakhisarai, he is obliged to act in accordance with the Scheme of 2018.

Learned counsel for the State submits that the Dy.S.P. Lakhisarai has already advised the petitioner to submit a proper application before the D.P.O. Lakhisarai and as soon as the said application is filed, the same will be considered by the competent committee.

This writ application is, thus, being disposed of with a direction to the Superintendent of Police, Lakhisarai to continue with his efforts to arrest respondent no. 7 and the S.I.T. be directed suitably in this regard. All raids and



scientific efforts be made to trace respondent no. 7 as early as possible.

At the same time, the I.O. of the case is directed to discuss the matter with the petitioner towards providing him security, and, in case, the petitioner submits an application seeking protection in terms of the Scheme of 2018 either with the D.P.O. or the Superintendent of Police, Lakhisarai or the District and Sessions Judge, Lakhisarai the same will be considered by the competent committee as early as possible.

This Writ 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'.

