

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31017 of 2021

Arising Out of PS. Case No.-28 Year-2021 Thana- RUPASPUR District- Patna

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Akash Kumar, Son of Vishvakant Singh, Resident of Mohalla - Agarwa, P.S. - Town Motihari, District - East Champaran. At present R/o R. P. S. Vanshikunj Apartment, Flat No. 502, P.S. - Danapur, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 39205 of 2021

Arising Out of PS. Case No.-28 Year-2021 Thana- RUPASPUR District- Patna

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Atish Kumar, Son of Sri Mritunjay Prakash Singh, Resident of Mohalla- Rajapur Gate No. 31, P.S.- Sri Krishna Puri, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 31017 of 2021)

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

For the Opposite Party/s : Mr. Matloob Rab, APP

(In CRIMINAL MISCELLANEOUS No. 39205 of 2021)

For the Petitioner/s : Mr.Gautam Kumar Yadav, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

3 05-01-2022 The applicants/accused in Crime No. 28 of 2021 registered with Rupaspur Police Station for the offences punishable under Section 364(A) read with Section 34 of the Indian Penal Code at the instance of first informant Jyoti Kumari, by these applications are seeking their release on bail during the course of the trial.



Heard the learned counsel appearing for the applicants/accused. They argued that now investigation of the crime is over and the charge sheet has been filed. It is further argued that entire prosecution case is doubtful because both the applicants/accused were not put up for the Test Identification Parade. The FIR was sent to the learned Magistrate belatedly on 18.03.2021. The seizure memo showing seizure of a country made pistol from applicant Atish Kumar was prepared at 6.10 A.M. whereas the abducted person was found at 4 A.M. of that day. This implies that the applicants were not found in the company of the abducted person.

The learned Additional Public Prosecutor opposed the application by contending that applicant Akash Kumar had confessed the crime and both the applicants were arrested from the spot.

I have considered the submissions so advanced and also perused the material placed before me.

The FIR of the crime in question was lodged on 15.01.2021 by Jyoti Kumar – brother of the abducted person Abhishekh Kumar. The first informant alleged that in the night hours of 14.01.2021 and precisely at about 10 P.M., he got a



phone call from the cellphone of his brother Abhishekh Kumar and the persons calling him had informed him that they had abducted Abhishekh Kumar and for getting him release, an amount of Rs.20,00,000/- be paid. Abhishekh Kumar was recovered by police in the morning hours of 15.01.2021 itself. Statement of Abhishekh Kumar shows that he was kept by the abductors for three days. However in subsequent paragraph of his statement this abducted person has stated that he was abducted on 14.01.2021 and was recovered by police on 15.01.2021. Nothing is pointed out to show that both the applicants were subjected to the Test Identification Parade by the police.

Investigation of the crime in question is over and the charge sheet has been filed. Hence, the order :-

- i. The application is allowed.
- ii. The applicants/accused in Crime No. 28 of 2021 registered with Rupaspur Police Station for the offences punishable under Section 364(A) read with Section 34 of the Indian Penal Code be released on bail on executing P.R. bond of Rs.25,000/- (Rupees Twenty Five Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -



(I) The applicants/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicants/accused should cooperate the trial court in expeditious disposal of the trial against them.

(III) The applicants/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicants in the instant case.

The applicants to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicants/accused.

Bhardwaj/-

(A. M. Badar, J)

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