

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59627 of 2021

Arising Out of PS. Case No.-185 Year-2021 Thana- FATEHPUR District- Gaya

CHANDAN KUMAR S/o Sunil Singh @ Sunil Kumar Resident of Village-
Mayapur, P.S.- Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Singh, Sr. Advocate Mr. Tej Pratap Singh, Advocate Mr. Yash Singh, Advocate
For the Informant	:	Mr. Sanjay Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Arun Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 05-05-2022 Heard learned Senior Counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of
four weeks after complete start of the physical Court.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 364(A) and 365/34 of the
Indian Penal Code.

Learned Senior Counsel for the petitioner submits that
the petitioner is in custody since 09.06.2021, is a person with clean
antecedent and charge-sheet has been submitted.

The informant alleges that his son had gone to Gaya
Market and at around 03:10 p.m. the informant received a ransom
call to pay Rs.2,50,000/- for releasing his son on his mobile
number from a mobile number as detailed in the FIR. The



informant further alleges that the petitioner about 15 days back had threatened to kidnap and kill the victim i.e. the son of the informant Saurabh Kumar.

Learned Senior Counsel for the petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the allegation is vague and cryptic in nature and it does not disclose the reason for giving threatening call by the petitioner to the son of the informant. It is further submitted that it absolutely does not stand to reason that if petitioner had any intention to kidnap or abduct the son of the informant then he would not have given threatening and thus create an evidence against himself and got implicated later, in the event, if any occurrence takes place as in the present case. It is alleged that the son of the informant was kidnapped. Learned Senior Counsel for the petitioner submits that case of co-accused Raushan Kumar Paswan @ Raushan Paswan has been rejected by order dated 23.02.2022 in Cr. Misc. No. 56439 of 2021 but distinguishes the said case on facts. It is submitted that said Raushan Kumar Paswan was apprehended along with Karu Singh on the spot while they had come to receive extortion and subsequently based on the confessional statement recorded by the police under Section 161 of the Cr.P.C. the name of this petitioner transpired. Learned Senior Counsel for the petitioner further submits that since petitioner was



named in the FIR, as such, he came to be implicated. It is further submitted that confessional statement under Section 161 of the Cr.P.C. does not have any evidentiary value. Learned Senior Counsel further submits that the petitioner was not apprehended from the spot nor the victim in his statement under Section 161 of the Cr.P.C. has stated that he had seen the petitioner at any point of time, though he had heard his name. Learned Senior Counsel further submits that while rejecting the bail application of Raushan Kumar Paswan inadvertently in the order dated 23.02.2022, it has been recorded that the statement of the victim after recovery was recorded under Section 164 of the Cr.P.C., when it is a fact that the statement of the victim was never recorded under Section 164 Cr.P.C. Learned Senior Counsel, thus, very fairly submits that it appears that the statement of the victim recorded under Section 161 of the Cr.P.C. was inadvertently typed as statement of the victim recorded under Section 164 Cr.P.C.

Learned counsel for the informant and learned A.P.P. for the State vehemently opposed the prayer for regular bail of the petitioner but are not able to meet the submissions made by the learned Senior Counsel for the petitioner with regard to the fact that if the petitioner had any intention to kidnap the victim then he would not have given a threatening and, thus, create an evidence against himself in the event if the occurrence had taken place.



Learned counsel for the informant further submits that charges have been framed and the trial has commenced but witnesses have not been examined.

Considering the fact that the petitioner is in custody since 09.06.2021, is a person with clean antecedent and charge-sheet has been submitted and taking into consideration the submissions made by the learned Senior Counsel for the petitioner, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Fatehpur P.S. Case No. 185 of 2021, subject to the condition that after release of the petitioner, if the learned court below comes to a conclusion that the petitioner is trying to delay the trial in any manner, the learned court below shall forthwith cancel the bail bond of the petitioner after recording reasons.

(Satyavrat Verma, J)

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