

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72454 of 2021

Arising Out of PS. Case No.-438 Year-2020 Thana- SAUR BAZAR District- Saharsa

VIKASH KUMAR S/o Lalan Kumar Yadav, Resident of Village- Sukhashan,
Ward No.9, P.S.- Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 19-10-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
Sour Bazar P.S. Case No. 438 of 2020 lodged under Sections
364(A)/34 of the Indian Penal Code.

As per prosecution, the kidnapping of the informant's
son who was working as Junior Engineer took place and a call
has received from the mobile of his kidnapped son by which
demand of Rs.15,00,000/- was made within 24 hours. Threat
was also there that if police shall be informed then they shall kill
the son of the informant.

Learned counsel for the petitioner submits that

petitioner is innocent and has committed no offence. He further submits that the alleged kidnapped son of the informant was recovered within 3 days. He further submits that upon recovery the statement of the victim has taken by the police under section 161 of Cr.P.C. in which he has disclosed that the kidnappers were kept *patti* on his eyes but they used to talk among themselves and name of 4 persons were disclosed by him including the petitioner. Learned counsel further submits that petitioner is in custody since 16.01.2021 and he has 5 criminal cases pending in which he is already on bail. He further submits that it is true that in 161 of Cr.P.C. name of the petitioner has come but the identity that which Vikash Kumar has not been disclosed. It has categorically stated by the petitioner that when they have released, they remove the *patti* also but the petitioner was never put on T.I.P., as such the petitioner's identity is always in doubt more, by saying name no one can be concluded to be accused. He further submits that there are two things which can identify the identity by sound and identity by figure which is lacking in this case.

Learned counsel for the State opposes the prayer for bail and submits that from the case diary, the evidence of the recovered victim and the confessional statement of co-accused

are fatal because on the confessional statement of the co-accused the recovery of the said kidnapper took place whereas on the confessional statement of the present petitioner the recovery of Rs.5,00,000/- alleged to be made. Upon specific query that whether charge has been framed in this case or not, learned counsel for the petitioner submits that charge has already been framed in this case and petitioner is ready to fulfill all the conditions whatsoever shall be imposed upon him by the court.

In the present facts and circumstances of the case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Saur Bazar P.S. Case No. 438 of 2020, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file an affidavit before the court about his relationship with the petitioner.

C. The petitioner shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

Speedy trial is the constitutional vision of justice. Admittedly, there are 6 cases pending against the present petitioner (including present one) and out of 6 cases, 5 cases belongs to the District Sessions Judge, Saharsa which are as follows :-

1. Saharsa P.S. Case No. 106 of 2014,
2. Saharsa P.S. Case No. 148 of 2016,
3. Saharsa P.S. Case No. 376 of 2007,
4. Saharsa P.S. Case No. 913 of 2020,
5. Sour Bazar P.S. Case No. 438 of 2020.

Let the District and Sessions Judge, Saharsa is directed to do the needful, so that all the cases which are magisterial triable or sessions triable prior commitment shall run before one Magistrate with one date and the cases which are

sessions triable after commitment shall run before one session court with one date and special cases, if any, shall run before the Special Court with one date.

Let the copy of this order be communicated to the District and Sessions Judge, Saharsa for his information and necessary compliance.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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