

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.829 of 2023

Arising Out of PS. Case No.-460 Year-2022 Thana- KOTWA District- East Champaran

Rupesh Kumar Singh, Son of Awadhesh Kumar Singh, Resident of Village-Dumra, P.S- Kotwa, District- East Champaran.

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur
4. The Superintendent of Police, East Champaran at Motihari
5. The Station House Officer, Kotwa Police Station, East Champaran at Motihari

... .. Respondents

Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate

For the Respondents : Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-12-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. This writ application has been filed seeking a direction to the respondent authorities to conduct proper investigation and to submit a charge-sheet in connection with Kotwa P.S. Case No. 460 of 2022 dated 17.11.2022 registered under Sections 147, 148, 149, 341, 302 of the Indian Penal Code and Section 27 of the Arms Act.

3. The grievance of the petitioner is that the investigating agency is slow in investigation of the case. It is stated that one of the accused, namely, Sandeep Panday @ Sandeep Kumar Panday @ Golu Panday who is a dreaded

criminal, he has committed several crimes and wanted in different criminal cases. It is stated that this accused is also facing trial in Town P.S. Case No. 580 of 2013 (Motihari).

4. Learned counsel submits that the police is not arresting the main accused as a result whereof the informant and her family members are under threat to their life. The occurrence took place on 17.11.2022, therefore, more than a year has gone thereafter. In this regard, representation has also been filed before the Superintendent of Police, East Champaran, Motihari and e-mails have been sent to the Director General of Police and Inspector General of Police but the accused persons are moving freely from one place to another and they are adopting different modes to pressurize the petitioner and her family members for compromising the case.

5. A counter affidavit has been filed on behalf of the State. From the statements made therein, it appears that the S.D.P.O., Sadar has supervised the case and found that the case is true against four FIR named accused persons and some unknown persons. As regards, Sandeep Pandey @ Golu Pandey and Sonu Pandey, it is stated that further investigation of the case is pending and the decision on the point of their accusation and involvement can be taken.

6. It is further stated that the supervising authority has issued several directions for immediate arrest of the accused persons against whom the case has been found true and to take action under Section 82 and 82 Cr.P.C. in case of absconders. Several other directions have been issued. The Superintendent of Police has in his report no. 2 also directed the Investigating Officer to arrest the FIR named accused persons against whom the case has been found true.

7. It is stated that during investigation Ripu Pandey and Nishant Kumar were arrested on 21.12.2022 and in their confessional statement they have disclosed the name of Subhash Pandey, Ankit Pandey and Binod Thakur and non-FIR accused Nishant Kumar, Suraj Tiwari and Sumit Kumar @ Rawan.

8. It is further stated that Binod Thakur was arrested on 06.01.2023 and he was remanded to judicial custody. Accused Subhash Pandey surrendered before the court on 27.06.2023 and he has been released on bail.

9. Against Ripu Pandey, Binod Thakur, Nishant Kumar and Suraj Tiwari, a charge-sheet bearing no. 33 of 2023 has been submitted.

10. Having regard to the facts and circumstances of the case, after going through the statements made by the

respondents in their counter affidavit, it appears to this Court that the Investigating Officer of the case has kept the investigation on the point of determination of accusation against some of the named accused persons pending for no plausible reason. In a murder case, if the Investigating Officer is keeping the investigation of the case pending for over one year and an inquiry on the point of alibi has been kept pending for such a long time, it cannot be said to be a proper and efficient way of investigation. A vague statement has been made that the supervising authority has directed for obtaining Section 82 and 83 Cr.P.C. process against the absconding accused but what has happened after the direction issued by the supervising authority is not disclosed in the counter affidavit. It seems that only some vague statements have been made in an attempt to explain the delay.

11. In the totality of the circumstances, this Court directs the Superintendent of Police, East Champaran at Motihari to change the Investigating Officer of the case immediately and hand over the case to a competent police officer with specific instructions to complete the investigation from all angles within a reasonable period, if it is found that the accused persons are absconding, the processes under Section 82

and 83 Cr.P.C. be obtained at the earliest and the Superintendent of Police shall ensure that the informant and her family members do not get any threat to withdraw the case. In any case, a police report be submitted in the learned court below at the earliest opportunity and after assessing the threat perception of the informant and her family, adequate security be provided to them.

12. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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