

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.26934 of 2023**

Arising Out of PS. Case No.-914 Year-2021 Thana- PURNIA COMPLAINT CASE District-  
Purnia

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MITHILESH KUMAR SON OF SRI KISHORI SINGH RESIDENT OF  
VILLAGE -BHATANI (KUBARI) PS- KUMARKHAND, DISTT  
-MADHEPURA AT PRESENT SHO MARANGA PS DISTRICT PURNEA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| For the Petitioner/s       | : | Mr. N.K. Agrawal, Sr. Advocate  |
|                            |   | Md. Musowir, Advocate           |
|                            |   | Mr. Kumar Rajdeep, Advocate     |
|                            |   | Mr. Arvind Kumar, Advocate      |
|                            |   | Ms. Diksha Kumari, Advocate     |
| For the Opposite Party/s : |   | Mr. Chandra Bhushan Prasad, APP |
| For the Complainant        | : | Mr. Nafisuzzoha, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

4      06-07-2023                      Heard learned Senior Counsel for the petitioner and  
  
learned A.P.P. for the State along with learned counsel for the  
  
complainant.

The petitioner apprehends his arrest in a case  
registered for the offences punishable under Sections 149,  
323, 325, 354(B), 426, 504, 506 of the Indian Penal Code and  
under Section 75 of the Juvenile Justice Care and Protection  
Act, 2015.

In compliance of the order dated 05.07.2023, the  
I.G, Purnea Range and Rail Superintendent of Police,  
Muzaffarpur, Mr. Kumar Ashish, are present.



Learned Senior Counsel for the petitioner submits that the complainant alleges that the accused persons including the petitioner forcefully entered the house of the complainant on 17.07.2021 without search warrant and when complainant questioned about search warrant, the accused persons became furious and abused him despite knowing that complainant is an Advocate, it is next alleged that on the same day at 08:30 P.M., 40-50 policemen including officials and some accused in civil dress came and started assaulting his son and daughter, further, the petitioner along with other accused assaulted the complainant, his son and daughter also, further the accused persons snatched three mobiles of family members of the complainant, his daughter's clothes were torn and she became semi-nude, further her injuries were noted by the learned Magistrate and the complainant was produced in Court in his night dress as detailed in the complaint, further the complainant, his son and daughters were released by the learned District Court on 18.07.2021, thereafter, he informed the Bar Association, next alleges that members of Purnea Bar Association met the Superintendent of Police on 22.07.2021, but no F.I.R. was instituted and thereafter the complaint case came to be filed.



The Inspector General of Police, Purnea Range who is present in the Court submits that one Gulafsa had instituted Kishanganj Mahila P.S. Case No. 27 of 2021 dated 05.07.2021 against her husband including the present complainant and others under Section 498-A of the Indian Penal Code read with other Sections of the I.P.C and Dowry Prohibition Act. It is further submitted that though there was no allegation in the F.I.R. that the daughter of Gulafsa was forcefully taken by her husband, but later the informant of the said case met the Superintendent of Police, Kishanganj and informed him that a voice recorded message of her minor daughter has been received from the mobile number of the complainant and it appears after hearing the voice message, the child is in distress, as she has stated that she is staying with the complainant and this fact should not be brought to the notice of her father i.e. husband of Gulafsa. It is further submitted that the Superintendent of Police, Kumar Ashish, after hearing the voice message of the child directed, Pushplata, the S.H.O of Mahila P.S. to rush to Purnea for finding out whether the child has been kept forcefully in the house of the complainant or not. It is further submitted that thereafter, Kishanganj police team reached the house of the



complainant where a ruckus was created by the family members of the complainant. It is next submitted that since Kishanganj police, on orders of the Superintendent of Police, had gone to the District of Purnea where a ruckus was created, as such, the Superintendent of Police, Purnea also directed the Officer-In-Charge of the concerned police Station to ensure the safety of Kishanganj police.

The Inspector General of Police further submits that no doubt the child was not recovered from the house of the complainant, but then the action of the police was bona fide as after hearing the distress voice recorded message of the child, the Superintendent of Police, Kishanganj could not have sat idle. It is next submitted that the occurrence, as alleged, in the complaint definitely shows that the concerned police officials exceeded their jurisdiction in dealing with the complainant and his family, the I.G. regrets that children ought not to have been manhandled, but then the said allegation is only in realm of allegation for the present. It is further submitted that police had no intention of committing any excess, but since the child of Gulafsa had sent a voice recorded message and that too secretly which compelled the Superintendent of Police, Kishanganj to ensure her well-being. It is further submitted



that the petitioner along with other members of the force might have exceeded their jurisdiction, but then no criminal offence is made out, rather the petitioner along with other accused can be departmentally proceeded.

The learned Senior Counsel, Mr. N.K. Agrawal, appearing on behalf of the petitioner concurs with the submissions of the I.G., Purnea Range.

Learned counsel for the complainant opposes the prayer for anticipatory bail of the petitioner and submits that from perusal of the order impugned, it would manifest that the same records that the complainant along with the children were released which amply demonstrates that the police had committed excess in arresting the minor children when they were not an accused either in the case under Section 498A of the IPC instituted by Gulafsa nor any complaint subsequently by Gulafsa was made against them.

At this stage, the learned Senior Counsel for the petitioner, Mr. N.K. Agrawal, submits that no doubt if what has been alleged is true then definitely the same was an excess committed by the police in arresting the minor children, but then it may be a possibility that the police without realizing that children are minor also took them along with the



complainant, it is further submitted that no prudent officer would indulge in an act creating evidence against himself of committing atrocities. It is further submitted that in the nature of allegation, the petitioner ought to have been proceeded departmentally and in the event if it was found that any criminal act was committed, then an F.I.R. ought to have been instituted.

The Inspector General of Police, Purnea Range assures this Court that after examining the issue in detail, proper action on the administrative side shall be initiated against the accused persons including the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Complaint Case No. 914 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

**Accordingly, the present anticipatory bail**



**application stands allowed.**

The personal appearance of the Inspector General of Police, Purnea Range along with Rail Superintendent of Police, Muzaffarpur, Mr. Kumar Ashish, is dispensed with.

**(Satyavrat Verma, J)**

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