

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59246 of 2022

Arising Out of PS. Case No.-145 Year-2022 Thana- BASANTPUR District- Siwan

Md. Kamrul Haque @ Kamrul Haque @ Sekh Kamrul Hak, S/o Shekh Islam,
Resident of village and P.O.- Khawaspur, P.S.- Basantpur (Lakri Nabiganj
O.P.), District Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Sr. Advocate Mr. Awnish Kumar, Advocate
For the Opposite Party/s	:	Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 7 15-05-2023 1. Heard learned senior counsel for the petitioner and the learned APP for the State.
2. In the compliance of direction given on 01.05.2023, Superintendent of Police, Siwan has filed his explanation by way of affidavit through learned APP in respect of non-compliance of this court's order dated 10.04.2023. I have perused the said explanation and I am satisfied with the same, hence the said explanation is hereby accepted.
3. Petitioner seeks regular bail in connection with Basantpur (Lakri Nabiganj) P.S. Case No. 145 of 2022 dated 08.04.2022 registered for the offences punishable under Sections 341, 323, 365, 504, 506/34 of the Indian Penal Code.
4. The main submissions advanced by the learned



senior counsel for the petitioner are that in fact the victim has been disappeared by the prosecution party itself to put pressure upon the petitioner and his family members as in between them a civil litigation is running with regard to a land dispute and after the alleged incident the informant's family contacted the petitioner's family to pressurize and negotiate with them to settle the land dispute and that conversation was recorded by using a technical device and thereafter the audio clip was produced before the investigation officer but no investigation has been made in respect of the said audio clip and before the trial court, at the time of hearing of the petitioner's bail prayer, the said audio clip in a Pen Drive was also produced and accordingly at every stage the petitioner has taken the said defence with relevant materials and the most important thing is that after the alleged kidnapping of the victim, the petitioner and his family members were found in their house which in normal course does not happen in such type of offence and there is no any independent witness to support the commission of the alleged kidnapping. Further submission is that the petitioner has been languishing in jail since 09.04.2022 having fair and clean antecedent.

5. Learned APP appearing for the State opposes the



bail prayer and submits that against the petitioner there is serious and specific allegation and the victim is still traceless.

6. Heard both the sides and perused the FIR, case diary and the Annexures attached to the petition. Admittedly, in between the petitioner and the prosecution party a civil litigation is running and during investigation no independent person claimed to have seen the alleged occurrence of kidnapping except the relatives of the victim and admittedly the petitioner, who is stated to be the main accused, was found at his house just after the commission of the alleged occurrence and during investigation, the investigating officer tried to get the photograph of the victim from the victim's family and in this regard he made several attempts but despite of that, the photograph of the victim was not provided to him and in this regard the paragraph no. 19 of the supplementary case diary is relevant and after the institution of the FIR, the police has not got the other relevant evidence against the petitioner, except the statement of the victim's relatives, to support the commission of the alleged occurrence and in the Annexure- 4 which is an application filed by the petitioner's wife before the S.D.P.O., Maharajganj, the above-mentioned defence was also taken but even then no investigation has been made in respect of the said



defence as to the victim's disappearance having been committed by the victim's own family and moreover the petitioner has fair and clean antecedent and against him the investigation has been completed. Considering these facts as well as above submissions, in my opinion, it is a fit case for bail to the petitioner. Accordingly, let the petitioner named-above be enlarged on bail in connection with Basantpur (Lakri Nabiganj) P.S. Case No. 145 of 2022 on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned.

(Shailendra Singh, J)

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