

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42359 of 2024

Arising Out of PS. Case No.-111 Year-2022 Thana- INDUSTRIAL AREA District- Vaishali

Sumit Kumar @ Sunil Kumar Son of Kishori Ray Resident of Village -
Jethui, P.S.- Industrial Area Hajipur, District - Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-09-2024 Heard learned counsel appearing on behalf of the

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

2. Petitioner seeks bail in connection with Industrial

Area P.S. Case No. 111 of 2022 registered for the offences

under Sections 364(A), 395 and 397 of the Indian Penal

Code.

3. The petitioner is named in the First Information

Report and is in custody since 01.04.2024.

4. Allegation against the petitioner is to kidnap the

informant on 04.07.2022 while he was proceeded for his

home after closing his shop at 8:00 O' Clock alongwith other

co-accused persons near to Chaurasiya Chowk, where

informant, during the course of kidnapping, came to know



that accused persons including the petitioner were planning to extort Rs. 50 Lakhs from him. It further appears from F.I.R. that during the course of kidnapping itself the Bhagwanpur Police Station stop the alleged Vagon-R Car, from where informant alongwith co-accused persons namely, Md. Miraz, Sourabh and Manish Kumar were apprehended. There is also allegation of looting of Rs. 65,000/- and to assault the informant physically during the course of kidnapping.

5. It is submitted by learned counsel appearing on behalf of the petitioner that admittedly the petitioner was not apprehended alongwith co-accused persons by Bhagwanpur Police Station and his name transpired on the basis of disclosure made by Md. Miraz, Sourabh and Manish Kumar. It is pointed out that petitioner was not put on Test Identification Parade as yet. It is also submitted that in furtherance of disclosure made by aforesaid co-accused persons nothing incriminating materials recovered/surfaced during the course of investigation as to connect the petitioner *prima-facie* with present occurrence of kidnapping.



6. While travelling over argument, it is submitted by learned counsel for the petitioner that apprehended co-accused namely, Manish Kumar and Sourabh Mishra were granted bail by learned coordinate Benches of this Court in Cr.Misc. No. 15857/2023 dated 17.07.2023 and Cr.Misc. No. 18963/ 2023 respectively. It is further pointed out that case of this petitioner is at par of co-accused Mukesh Kumar, who was also granted bail by one of the learned Bench of his Court through Cr. Misc. No. 54858/2023 dated 04.09.2023, and on the ground of parity, this petitioner also deserves bail. While concluding argument, it is pointed out that investigation of this case is completed and, as such, there is no chance of tampering with the evidence and moreover, petitioner found involved in two more criminal cases, where he is on bail.

7. Learned A.P.P. for the State, while opposing the prayer for bail of the petitioner, submitted that the Vagon-R which alleged to be used in the present occurrence of kidnapping belongs to this petitioner only and, therefore, his active involvement in present occurrence cannot be denied.



8. Taking note of the submissions as advanced by learned A.P.P., it is further pointed out by learned counsel for the petitioner that vehicle in issue was found to be registered in the name of one Kumar Gourav who sold the same to one Santosh Kumar and which was not duly transferred in terms of the Motor Vehicle Rules in favour of Santosh Kumar and, therefore, still the rightful owner of this vehicle is Kumar Gourabh. It is pointed out that mere on the basis of disclosure of apprehended co-accused, petitioner was implicated in this case. It is further pointed out that Santosh Kumar who is not the rightful owner of the vehicle having no legal right to sale it to the petitioner, made on his affidavit suggesting sale, the allegation as raised *qua* petitioner is completely unfounded.

9. In view of aforesaid factual submissions and by taking note of the fact as save and except disclosure, nothing incriminating appears recovered/surfaced from the possession of this petitioner during the course of investigation as to connect petitioner *prima-facie* with present occurrence of kidnapping, where ownership of



recovered vehicle also appears disputed coupled with the fact that investigation of this case is already completed, where petitioner is in custody since 01.04.2024, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate - 1st Class, Vaishali at Hajipur/concerned court, in connection with Industrial Area P.S. Case No. 111 of 2022, subject to the condition as laid down under Section 437 (3) Cr.P.C/Section 480(3) of the Bhartiya Nyaya Suraksha Sanhita (in short "B.N.S.S.") and further condition that:

(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) If the petitioner tampers with the evidence or



the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Chandra Shekhar Jha, J.)

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