

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48369 of 2024

Arising Out of PS. Case No.-216 Year-2017 Thana- RAXAUL District- East Champaran

Dewa Gupta Son of Hari Kishore Gupta Resident of Mohalla- Ward No. 18,
Barhai Tola, P.S.- Chhatuni, District- East Champaran (Motihari).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 28-08-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 387, 307 and 120(B)/34 of the Indian Penal Code as well as Section 27 of the Arms Act.

3. Learned counsel for the petitioner submits that petitioner has antecedent of 13 cases.

4. The informant alleges that he is Director of a School and on 23.05.2017 he received a call from mobile no. 7079894317 and the caller identified himself as Kunal Singh who shot Bablu Dubey in the court premises and thereafter demanded extortion of Rs.50 lakhs within ten days failing which he would be killed. It is further alleged that on 13.06.2017 again an extortion call came from mobile no. 7493051400 and the



caller gave ten days further time to give the extortion amount. It is next alleged that again a call came on 27.06.2017 from mobile no. 8558854286 with a threat that money has to be given by 29.06.2017. It is also alleged that when extortion money was not given as such on 03.07.2017, indiscriminate firing was resorted to in the school campus but prior to that on 27.06.2017 one Bittu @ Gaurav Kumar came and said Kunal Singh was demanding extortion from him also and thereafter the occurrence of 03.07.2017 took place, thus alleges that it appears that Bittu was also involved in the occurrence.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the case. It is further submitted that for the same occurrence the son of the informant instituted Town P.S. Case No. 215 of 2017 as such it is submitted that for the same offence two FIRs cannot be instituted. It is next submitted that petitioner was arrested in connection with Town P.S. Case No. 838 of 2017 and was granted bail by this Court vide order dated 26.09.2018 but then petitioner was not remanded in the present case which amply demonstrates that the petitioner was not involved in the case or else the police would have remanded him in the present case when he was in custody in Town P.S. Case No. 838 of 2017. It is



also submitted that name of the petitioner transpired in the supervision based on confession of apprehended accused. It is further submitted that though in the supervision report, it has been recorded that the name of the petitioner transpired based on the confession of apprehended accused but then the apprehended accused did not even utter a word against the petitioner, but then also police implicated him in the present case. It is next submitted that petitioner was implicated in the case as he is husband of Mayor of Motihari. It is also submitted that the order impugned records that the name of the petitioner came in the confessional statement but the investigation with regard to the petitioner is yet not complete and his complicity in the alleged offence is yet to be ascertained.

6. Learned counsel for the petitioner next submits relying on a judgment of the Hon'ble Supreme Court in the case of *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Anr* reported in *AIR 2012 SC (Criminal) 469* that the Hon'ble Supreme Court has held that merely because an accused has antecedent the same should not be the sole criteria for considering his bail application if nothing has transpired during the course of the investigation. Learned counsel next relies on the judgment of the Hon'ble Supreme Court in the case of



Sushila Aggarwal and Others Vs. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1 and submits that the principles as laid in *AIR 2012 SC (Criminal) 469* stands reiterated.

7. Learned A.P.P. for the State vehemently opposes the prayer for anticipatory bail of the petitioner and submits that petitioner is a veteran criminal of 13 cases of serious nature. It is further submitted that whenever ransom is demanded the real face never comes to the fore rather acts from behind. It is next submitted that petitioner being husband of the present Mayor of Motihari has been helped by the police. It is also submitted that it absolutely does not stand to reason that as to why the police did not remand him when he was in custody in Town P.S. Case No. 838 of 2017 which demonstrates the connivance of the investigating officer of the case. It is fairly submitted that for the same offence two FIRs cannot be instituted but then in the nature of allegation as alleged in the FIR, it would manifest that the informant was coerced into submission for parting with the extortion amount of Rs.50 lakhs and when he refused indiscriminate firing was made in the school campus where children studies. Learned A.P.P. next submits that there can be no confusion with respect to the submissions made by the



learned counsel appearing on behalf of the petitioner based on the order of the Hon'ble Supreme Court but then every case has to be judged on its own facts and circumstances. Learned A.P.P. also submits that petitioner is not a saint but a criminal and is involved in serious offences and if a person like petitioner is given the privilege of anticipatory bail and that too in such a serious offence that would amount to travesty of justice. Learned A.P.P. further submits that no doubt the District Judge in the order impugned has recorded that the complicity of the petitioner is yet to be ascertained but then fairly submits that the police in cases involving offences less than seven years is acting promptly but in a case of serious nature like the present one, the lackadaisical approach of the police cannot be countenanced. It is also submitted that it appears that the petitioner is using his political connections, as such till date he has not been arrested nor NBW or process under Sections 82 and 83 Cr.P.C. have been issued and the petitioner is roaming freely for the last more than seven years.

8. Considering the submissions made by the learned A.P.P., the Court is not inclined to extend the privilege of anticipatory bail to the petitioner in connection with Raxaul P.S. Case No. 216 of 2017 pending in the Court of learned Chief



Judicial Magistrate, East Champaran at Motihari/Successor Court.

9. Hence, the prayer for anticipatory bail of the petitioner is rejected.

10. Let a copy of this order be sent to the Superintendent of Police, East Champaran at Motihari forthwith for his perusal and necessary action.

(Satyavrat Verma, J)

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