

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48835 of 2024

Arising Out of PS. Case No.-546 Year-2023 Thana- BUXAR MUFFSIL District- Buxar

Nitish Kumar S/o Kishori Rajak @ Kishori Dhobi R/o vill - Khilafatpur, P.S. -
Buxar (Muffasil), Distt. - Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Gupta, Advocate
For the Opposite Party/s : Mr. Rabindra Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 18-09-2024 1. Heard learned counsel for the petitioner and Mr. Rabindra Kumar learned A.P.P. for the State.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 365 and 366/34 of the Indian Penal Code.
3. Learned counsel for the petitioner submits that the case was taken up on 19.08.2024 when the case diary along with the statement of the victim recorded under Section 164 Cr.P.C. was called for but the same till date has not been received.
4. The Court will not wait endlessly for the case diary and the statement of the victim and, thus, proceeds to decide the case on merits based on the allegation as alleged in the FIR and the facts which have been recorded in the order impugned.
5. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent.



6. The informant alleges that his wife on 19.12.2023 at 07:00 p.m. went to attend the call of nature but till date has not returned home, thus, alleges that his wife has been abducted by his Bhabhi, petitioner and Vivek Kumar for immoral purposes.

7. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is further submitted that the date of occurrence is 19.12.2023 and the FIR came to be instituted on 25.12.2023 i.e. after a delay of six days of the occurrence which casts an aspersion on the case of the prosecution. It is next submitted that the victim has come back and the impugned order records that victim came back and her statement was recorded under Section 164 Cr.P.C. wherein she has stated that petitioner along with other accused persons kidnapped her and took her to Hyderabad but did not commit any wrong and she returned by herself.

8. Learned counsel for the petitioner submits that in the order impugned, it has been recorded that petitioner is the brother-in-law of the victim but then that is an error of record. It is further submitted that petitioner is not related to the husband of the victim in any manner and is a co-villager and came to be implicated based on suspicion but after the victim came back



her statement was recorded under Section 164 Cr.P.C. under pressure of the informant as such she has alleged that she was kidnapped but then it is submitted that in the impugned order, it is also recorded that the victim in her statement has also stated that the accused persons committed no wrong and she came back from Hyderabad all by herself which amply demonstrates that the victim along with the accused persons had gone to Hyderabad all by herself. It is next submitted that since the victim was having strained relationship with her husband as such she along with her Bhabhi and other co-accused had gone to Hyderabad but then there was no relationship in between this petitioner and the victim. It is also submitted that the fact that victim had accompanied the accused persons to Hyderabad was in knowledge of the informant as such the FIR was not instituted instantly rather came to be instituted belatedly after six days of the occurrence. It is further submitted that since victim has not cast any aspersion on the petitioner as such no useful purpose would be served by sending the petitioner to jail.

9. Mr. Rabindra Kumar learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

10. Considering the submissions made by the learned counsel for the petitioner, let the petitioner above-named, in the



event of his arrest or surrender before the learned Court below 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 court below where the case is pending/successor court in connection with Buxar (Mufassil) P.S. Case No. 546 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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