

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82747 of 2024

Arising Out of PS. Case No.-228 Year-2024 Thana- SITAMARHI District- Sitamarhi

Shubham Kumar, Son of Vinay Kumar @ Vinay Kumar Gupta, R/O Koat Bazar, Chakmahila, P.S.- Sitamarhi, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ashhar Mustafa, Advocate
	Mr. Arvind Kumar, Advocate
	Ms. Anita Kumari, Advocate
For the Opposite Party/s :	Mr. Tarun Prasad Mandal, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 31-01-2025 Heard learned Advocate appearing on behalf of the petitioner and the learned APP for the State.

2. The petitioner apprehends his arrest in connection with Sitamarhi P.S. Case No. 228 of 2024, registered for the offences punishable under Section 364 of the Indian Penal Code. However, later on Sections 302/201 of the Indian Penal Code were also added vide order dated 04.04.2024.

3. The informant alleges that on 01.04.2024 her husband and elder son had gone to Patna for some work, in the meanwhile, her two younger sons, Ashish along with Akash told her that the accused Sanjeev, Suraj and a few persons of Dr. Ajay Kumar called them to talk. For the said purpose, they reached at Ghora Sahan station. However, they were further informed that now they were called at Sitamarhi, whereupon



they reached Sitamarhi and made a video call and told the informant that they are in their house. The sons of the informant also made repeated Video and Audio call and also sent the photographs of illegally trespassers and the child, who were residing in the house without any agreement and rent. It is further alleged that in the meantime the police was also called by the accused persons by making allegation that both the sons have illegal trespassed in the house. The police arrived there and pacified the matter and returned by saying that they are brothers and thus they should be allowed to stay in the house. After some time, while the sons of the informant were in the house in question, all the accused persons named in the FIR along with some unknown persons came there and locked the gate of the said house. The mobile phone of the sons of the informant were found switched off. Suspecting the foul play, information was given to the local police station. It has further been alleged that from the reliable sources, the informant came to know that co-accused Sanjeev along with other criminals, who had come on various motorcycles forcibly dragged both the sons of the informant from their house and taken away on a black Tata Hummer vehicle after brutally assaulting them. The informant raised suspicion of kidnapping and causing harm to her sons.



Later on, the dead body of two sons of the informant were recovered at distant place

4. Learned Advocate for the petitioner referring to the F.I.R. contended that the petitioner is not named in the First Information Report. Even as per the allegation, the same is revolved around accused Sanjeev, Rinki Devi, Siddi Kumari, Suraj and Dr. Ajay Singh along with unknown miscreants. Soon after the institution of the F.I.R., the dead body of both the sons of the informant were recovered and the co-accused Sanjeev along with his wife and daughter were also arrested. The confessional statement of apprehended co-accused Sanjeev Kumar was recorded, but he did not even disclose the name of the petitioner, though in his confessional statement, the name of several persons have surfaced, as his accomplice. It is further contended that the statement of one Raju Kumar was also recorded by the police, as mentioned in para. 25 and further in 172 of the case diary claiming himself to be an eye witness to the occurrence, but he also did not disclose the name of the petitioner in the entire incidence.

5. The name of the petitioner has surfaced for the first time on 06.06.2024 where the spy of the police disclosed the name of the petitioner along with other persons suspecting their



involvement in the crime. Save and except the disclosure of the name of the petitioner by the spy, there is no other material. It is the contention of the petitioner that only on account of he being friend of Suraj Kumar, whose house is situated nearby the house of the petitioner and they were in talking terms, thus on the basis of some call details the name of the petitioner has been implicated in this case. The petitioner has nothing to do with the enmity and the dispute arising out of sale of the land and house, pending between the co-accused Sanjeev Kumar and the father of the deceased. The petitioner bears fair antecedent and he undertake before this Court that he shall always cooperate in the investigation of the crime and in the proceeding of the Court.

6. On the other hand, learned APP for the State vehemently opposes the bail application and submitted that the witnesses during the course of investigation have supported the prosecution case. The occurrence is apart from barbaric, has committed in a planned way in collusion with all the accused persons. The call details of the petitioner and his connection with the other accused persons, apart from disclosure made by the spy clearly suggests the involvement of the petitioner in the crime.

7. Regard being had to the submissions made on



behalf of the parties and taking note of absence of any materials in the case diary as well as supplementary case diary; and even till date no material has come against the petitioner nor the name of the petitioner has been disclosed by any of the witnesses, moreover the investigation of the crime against the petitioner is kept pending as yet, coupled with his fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Sitamarhi P.S. Case No. 228 of 2024, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further conditions:

- (i) One of the bailors shall be the own/close relative of the petitioner.
- (ii) The petitioner shall ensure his physical presence before the investigating officer in case he is required.

(Harish Kumar, J)

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