

Najmul @ Md. Najmul @ Najmul Haque vs The State Of Bihar on 17 August, 2023

Author: Rajiv Roy

Bench: Rajiv Roy

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.10325 of 2023

Arising Out of PS. Case No.-855 Year-2022 Thana- FORBESGANJ District

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1. NAJMUL @ MD. NAJMUL @ NAJMUL HAQUE Son of Sheikh Rustam
R/V- Doriya Sonapur, Ward no. 9 P.S- Forbesganj, Dist- Araria
 2. Imam Son of Haroon R/V- Doriya Sonapur, Ward no. 9 P.S- Forbesganj,
Dist- Araria

... ..
Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manini Jaiswal, Advocate

For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

For the Informant : Mr. Rama Nand Poddar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 17-08-2023

Heard learned Counsel for the petitioners, State and learned Counsel for the informant.

The petitioners are accuseds in connection with Farbisganj Simraha P.S. Case No. 855 of 2022 registered for the offences under sections 363, 364(A), 365 and 120(B) of the Indian Penal Code lodged on 11.08.2022 by the informant, Md. Imran.

As per the prosecution story, the informant made a written statement stating that his 3 ½ years old son, Reyan is missing since 10.08.2022 and was last seen with the cousin of the informant namely, Md. Sannaullah and it has been alleged that he may have been kidnapped. Subsequently, another Patna High Court CR. MISC. No.10325 of 2023(5) dt.17-08-2023 application was made on 17.08.2022 in which the involvement of the petitioner was also made. Md. Sannaullah was interrogated and he confessed that he had taken his cousin brother and as there was darkness, he was unable to think how to ask for ransom from his uncle.

He further confessed that since some of them had seen him and asked where they are going, he was disturbed that he may be implicated and accordingly, he threw the boy in a canal and returned to his home. Later, upon knowledge of police case, he wanted to escape but was arrested.

Learned Counsel for the petitioners submit that the earlier FIR was against Md. Sannaullah who also confessed of having thrown the boy in the canal and he had also narrated the reason for it. Subsequently, to better the FIR, the other accused persons have been implicated and one Rehan Alam @ Guddu who was also implicated alongwith these petitioners, moved this Court in Cr. Misc. No. 71539 of 2022 and on 02.08.2023, a co- ordinate bench has granted bail after taking into account the facts.

Learned Counsel for the informant, on the other hand, submits that all the accused persons are hand in glove with the police officials and in the process, the victim child has still not Patna High Court CR. MISC. No.10325 of 2023(5) dt.17-08-2023 been recovered.

Although, it is unfortunate that 3 ½ years old boy was kidnapped and still traceless, it is equally important that innocent people are not implicated in the matter. The earlier version of the FIR points finger on Md. Sanaullah who has confessed to his guilt as per the investigation, similar situate co- accused Rehan Alam @ Guddu has since been released on bail, as stated above, this court is inclined to extend the same privilege to them.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned C.J.M., Araria in connection with Farbisganj Simraha P.S. Case No. 855 of 2022, subject to the following conditions-:

- (i) one of the bailor should be the family member of the petitioners who shall provide official document to show their bona fide;
- (ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial court itself;
- (iii) the petitioners shall appear before the concerned Patna High Court CR. MISC. No.10325 of 2023(5) dt.17-08-2023 police station every month for next one year to mark attendance;
- (iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;
- (v) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J) Neha/-

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