

(2019) 12 PAT CK 0019

In the Patna High Court

Case No : Criminal Miscellaneous No. 44404 Of 2019

Sikandar Miyan

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 04-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 364A

Citation : (2019) 12 PAT CK 0019

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Subodh Prasad, Sanjay Kumar Tiwary

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned APP for the State.
2. The petitioner seeks bail in Kahalgaon PS Case No. 151 of 2012 dated 19.05.2012 instituted under Section 364A of the Indian Penal Code.
3. The petitioner, though not named in the FIR, was later on implicated on the basis of confessional statement of co-accused Khushbu Kumari.
4. Learned counsel for the petitioner submitted that he was implicated on the basis of confessional statement of co-accused Khushbu Kumari but no specific role has been assigned to him. It was submitted that the petitioner has been named to be one of the persons who was around, along with others, and had taken part in the abduction. It was submitted that the victim boy has already returned safely and has not stated with regard to the petitioner, either before the police or the Court. Learned counsel submitted that except for the petitioner, all seven co-accused faced trial in which by judgment dated 04.08.2015 they have been acquitted. It was submitted that during trial the victim boy Santosh Kumar Jaiswal had not taken the name of the petitioner in his deposition before the Court. Learned counsel submitted that earlier the Court had called for a report with regard to the time when trial could be concluded and the Court had reported

under letter dated 26th July, 2019 that it will take at least three months and thereafter by letter dated 25th October, 2019 the Trial Court has informed that till date only two prosecution witnesses, out of seven, have been examined. Learned counsel submitted that the petitioner is in custody since 02.11.2018 without having antecedent and no direct role or overt act attributed to him.

5. Learned APP, from the case diary, could not controvert the fact that the petitioner is only named as being present along with other seven co-accused as also the fact that upon trial all other seven co-accused have been acquitted.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 7th Additional District and Sessions Judge, Bhagalpur in Kahalgaon PS Case No. 151 of 2012 corresponding to S.T. No. 933 of 2018, subject to the condition that the petitioner shall cooperate in the trial and be present on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

7. The application stands disposed off in the aforementioned terms.