

SUPREME COURT OF INDIA

Fekan Yadav

Vs.

Satendra Yadav @ Boss Yadav @ Satendra Kumar

CrI.A.No.1685 of 2017

(J.Chelameswar and S.Abdul Nazeer,JJ.,)

19.09.2017

JUDGMENT

S.Abdul Nazeer,J.,

SLP(CrI.)No.5510 of 2017

1. Leave granted.

2. Respondents 1 and 2 were apprehending their arrest in Karpi P.S. Case No.07/17, registered under Section 363, 365 read with Section 34 of IPC. Therefore, they filed an anticipatory bail petition to extend the privilege of pre-arrest bail to them, before the Additional Sessions Judge-II, Jehanabad in A.B.P.No.148 of 17. Learned Sessions Judge by his order dated 16.02.2017, rejected their petition. Thereafter they filed a petition before the High Court of Judicature at Patna in Criminal Miscellaneous No.12482 of 2017. The High Court vide order dated 27.4.2017, allowed the petition and granted anticipatory bail to them, subject to certain conditions stated therein. The appellant has questioned the legality and correctness of the said order in this appeal.

3. Learned counsel for the appellant submits that the son of the appellant, namely, Bittu Kumar was kidnapped by respondents 1 and 2 and other co-accused on 3.1.2017. The appellant could not trace the child despite his best efforts. Therefore, the appellant lodged FIR with the Karpi Police Station. It is further submitted that few months prior to the kidnapping, the respondent No.1 had threatened the appellant that he will kill the appellant's son. Therefore, the High Court was not justified in granting anticipatory bail to respondent Nos. 1 and 2.

4. Learned counsel for the State of Bihar, the third respondent herein, submits that having regard to the gravity of accusations made against the respondent Nos. 1 and 2, it is absolutely necessary for their custodial interrogation.

5. Learned counsel for respondent Nos. 1 and 2 submits that respondents 1 and 2 have been falsely implicated in the case. Therefore, the High Court has rightly granted pre-arrest bail to the respondents 1 and 2.

6. We have carefully considered the submissions of the learned counsel made at the Bar and perused the materials placed on record.

7. It is evident from the FIR that the appellant has informed that his son, Bittu Kumar was a student of Baal Siksha Niketan Karpi, Arwal. On 3.1.2017 at about 3 p.m. Bittu Kumar left for school from his residence by boarding a tempo in village Ramapur Mushari. But he did not reach the school and on 4.1.2017 the appellant came to know that his son, Bittu Kumar had disappeared on the way. Six months prior to the incident, the first respondent had threatened the appellant that he will be made issueless. Three months prior to the incident, the first respondent, Satendra Yadav had gone to the school of Bittu Kumar and called him outside the school. However, Bittu Kumar did not join the first respondent. That is why the appellant has raised his suspicion against respondent Nos. 1 and 2, that they have kidnapped his son. Learned Sessions Judge examined the case diary and found that the witnesses examined by the IO during the investigation had supported the case of the prosecution. The victim boy has not been traced so far.

8. The High Court without assigning any reasons has granted the anticipatory bail. Having regard to the nature and gravity of the accusations, we are of the view that the High Court was not justified in granting anticipatory bail. Hence, the appeal is allowed and the order of the High Court dated 27.4.2017 in CrI.Misc. No.12482 of 2017 is hereby set aside.