

In the Court of Addl. Sessions Judge- III
Vaishali at Hajipur

S. Tr. No. 206/2021

27.07.2021

This order will dispose off the petition U/s 227 Cr.P.C. dated 28-06-2021 on behalf of accused-petitioner Md Shahbaj @ Md Shahbaj Alam praying to discharge him. Ld. APP filed the reply dated 05-07-2021 to the petition of the defence.

As per allegations, the informant has alleged that his daughter Payal Kumari aged 12 years and his niece Chanchal Kumari aged 15 years have been missing from the house since 02.10.2020 at about 5 P.M. During search it came to know that accused persons named in FIR including the accused-petitioner who are members of criminal organisation and they have been kidnapping Hindu girls for illegal purpose. The informant has lodged an FIR Baligaon P.S. case no. 118/2020 dated 04.10.2020 under section 363, 366-A/34 against the accused persons.

Learned Counsel for the petitioner submitted that petitioner has been implicated falsely whereas, he is innocent and he has not committed any offence as alleged. He further submitted that case has been registered by the police against 18 persons and it is alleged that they are running organisation for kidnapping Hindu girls for the purpose of sale and in the said FIR name of the petitioner has also been involved but there is nothing alleged against the petitioner. He further submitted that there is no evidence of kidnapping the victim as alleged. He further submitted that police has concluded the investigation but nothing has come out against the petitioner during course of investigation and even petitioner has not been identified. He further submitted that in course of supervision by SDPO, he has not

found the name of the petitioner so the petitioner has no complicity in the occurrence. He further submitted that there is no evidence of taking away the victim as alleged. He further submitted that even name of the father of petitioner is also involved in the FIR. Learned Counsel for the defence prayed to allow the petition under section 227 CrPC and to discharge the petitioner.

Learned A.P.P has vehemently opposed the prayer of the petitioner. He submitted that petition under section 227 CrPC filed on behalf of defence is not maintainable. He further submitted that after proper investigation, I.O has collected a lot of material as evidence against the accused-petitioner, which are mentioned in case diary. He further submitted that SDPO has found complicity of the petitioner alongwith others in the occurrence, which is mentioned in para no. 63 of case diary. He further submitted that as per para no. 70, 72 and 73 of the case diary, witnesses have also supported the allegation of the FIR. He further submitted that victim has also supported the allegation of the informant in her statement under section 164 CrPC. Thereafter, I.O. has submitted charge-sheet no. 144/2020 dated 26.12.2020 under section 363, 366(A)/34 of IPC against the petitioner-accused. He further submitted that sufficient cogent material and evidence are available on record for framing charge against the petitioner.

Heard Learned Counsel for the petitioner-accused and Learned A.P.P. on behalf of State through video conferencing.

Perused the record and case diary.

The petitioner is named in FIR. As per allegation, minor daughter and minor niece of the informant had been missing on 02.10.2020. The informant alleged that accused persons named in FIR including the accused-petitioner are members of criminal organisation,

who have been kidnapping Hindu girls for illegal purpose. Moreover, as per para no. 71 to 73 of case diary, witnesses have supported the allegation of the informant against the petitioner. Further, after completion of investigation, I.O. has submitted charge-sheet no. 144/2020 dated 26.12.2020 under section 363, 366(A)/34 of IPC against the petitioner-accused. At this stage of framing of charge only prima facie case is to be considered against the accused-petitioner.

In view of facts and circumstances as discussed above, I find that sufficient material is available on record as well as case diary to frame charge against the petitioner. Thus, considering the aforesaid facts and circumstances of the case, petition dated 28-06-2021 under section 227 CrPC of the petitioner-accused is **rejected**.

Now put up record for framing charge on 07-08-2021.

Addl. Sessions Judge - III
Vaishali at Hajipur
27.07.2021