

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51674 of 2014

Arising Out of PS.Case No. -305 Year- 2014 Thana -BUDDHACOLONY District- PATNA

- =====
1. Devendra Tiwari aged about 58 years, S/o Late Ram Padarath Tiwari a permanent resident of village- Jagatpur, PS- Aurai, District- Muzaffarpur At present C/o 'Parvati Bhawan', K-34, Chitragupta Nagar, PS- Patrakar Nagar, Town and District- Patna
2. Md. Chand Khan aged about 27 years, S/o Md. Moin Khan, Resident of Nasriganj, Pathan Toli, PS- Danapur, District- Patna

.... Petitioners

Versus

1. The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Rohit Mishra
For the Opposite Party : Mr. Ahmad Ali(App)
For the Informant : Mr. Gorang Chatterjee,

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

6 06-07-2015

Heard the parties.

The petitioners who are named in the FIR apprehend their arrest in connection with Buddha Colony P.S. case no.305 of 2014, registered under Sections 406,379 and 34 of the IPC.

The informant alleged that a raid was held in his jewellery shop. It is alleged that to evade from the said raid the informant dispatched one bag containing few packets of ornaments through Manish Kumar Pandey to keep the same in the almirah of the petitioner no.1, namely Devendra Tiwari who runs A.C. repair shop in the same business complex. After the raid he sent another employee to bring the bag which was brought and on search found one packet of ornaments was missing. Accordingly the case was registered.

Contention of the petitioners is that the bag was brought by another employee. He may be one of the persons who committed theft of one packet of ornaments. The suspicion has been raised against the petitioners in the FIR. Even accepting the allegation, it is not the case that petitioner no.2, namely Md. Chand Khan was entrusted with any ornaments of the informant.

Mr. Chatterjee, learned counsel for the informant, referring to paragraph nos. 6 and 7 of the case diary submits that the bag was handed over in presence of another witness to the employees of the informant and at that point of time it was also found/detected that one packet was missing. There is material on record disclosing that petitioner no.1 absconded thereafter from that place.

Taking into account the facts in the present case, I am not inclined to extend the privilege of anticipatory bail to the petitioner no.1, namely, Devendra Tiwari. Prayer for bail is rejected.

Petitioner No.1 may surrender and pray for regular bail before the learned Court below. In that event the learned Court below shall consider and dispose of the same on its own merit and pass appropriate order uninfluenced by the present order.

So far as the petitioner no.2, namely, Md. Chand Khan is concerned, considering the fact that admittedly, he was

not entrusted with the bag containing the two packets of ornaments and who is an employee of petitioner no.1, this Court is inclined to privilege him with anticipatory bail. Let the petitioner No.2, namely, Md. Chand Khan, in the event of his arrest/surrender before the learned Court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, First Class, Patna, in connection with Buddha Colony P.S. case no. 305 of 2014, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with following conditions:-

- (i) One of the bailors shall be the own/close family member of the petitioner.
- (ii) As soon as the charges are framed the petitioner shall appear in person before the trial court on the date(s) fixed at the trial. In case of default in such appearance on two consecutive dates, the trial Court shall have liberty to cancel the bail bonds of the petitioner and secure his arrest in accordance with law.

(Kishore Kumar Mandal, J)

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