

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25142 of 2016

Arising Out of PS.Case No. -241 Year- 2001 Thana -SAMASTIPUR MUFFASIL District-
SAMASTIPUR

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Manish Kumar son of Late Shyam Nandan Prasad resident of Village-
Bajopur, P.S.- Muffasil, District- Samastipur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar

For the Opposite Party/s : Mr. Arun Kumar Pandey (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

02/ 20-06-2016

Heard learned counsels for the petitioner

and the State.

The petitioner is apprehending his arrest in
a case registered for the offences punishable under Sections 395
and 397 of the Indian Penal Code in exercise of the jurisdiction
under Section 319 of the Cr.P.C.

The prosecution case is that on 05.07.2001
the informant Sikandar Kumar Rai was sleeping after having
dinner near the bed of his father. In the meantime, the miscreants
caused firearm injury on the chest of the father of the informant
when co-accused Rajkumar Rai was identified. Thereafter, the
accused persons committed dacoity in the house of the informant

leading to registration of the FIR under Sections 395 and 397 of the IPC against Rajkumar Rai and 16-17 unknown.

It is submitted by learned counsel for the petitioner that the petitioner was not named in the FIR. The name of the petitioner subsequently sprang up during investigation in the statement of the victim. On conclusion of the investigation the petitioner was not sent up for trial, the final form was accepted but in course of trial the petitioner has been summoned in exercise of jurisdiction under Section 319 of the Cr.P.C. A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

It is submitted by learned counsel for the informant that while accepting the final from the informant was not noticed and the victim named the petitioner during investigation which is recorded in paragraph 83 of the case diary.

Considering the fact that the petitioner was not named in the FIR, his name sprang up during investigation, he was not sent up for trial and now he has been summoned in exercise of jurisdiction under Section 319 of the Cr.P.C. coupled with the fact that the impugned order does not reflect any discussion of the evidence which persuaded the learned trial

court to summon the petitioner, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-2, Samastipur in connection with Sessions Trial No. 804 of 2008 arising out of Samastipur Muffasil P.S. Case No. 241 of 2001, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions.

(Dinesh Kumar Singh, J)

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