

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50879 of 2016

Arising Out of PS.Case No. -3 Year- 2016 Thana -PATNA GRP CASE District- PATNA

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Bitu Sao @ Prince aged about 24 years son of Late Dinesh Sao, resident of village - Salimpur near High School, Police Station - Salimpur, District - Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Sharma, Advocate

For the Opposite Party/s : Mr. Bharat Lal, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 25-11-2016 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

Petitioner is languishing in judicial custody since 21.06.2016 in connection with R.P.F. Post Rejendra Nagar Patna Case No. 03/2016 registered for the offence punishable under Section 3 of the Railway Property (Unlawful Possession) Act, 1996 (hereinafter referred to as the Act).

The prosecution case is that railway police found a bag, which was alleged to have been hidden in the bushes by the petitioner containing children's clothes worth Rs. 12,000/-. Accordingly, a seizure-list was prepared.

It has been submitted by the learned counsel for the petitioner that no incriminating article has been found from the



possession of the petitioner and that he is innocent and has been falsely implicated in the aforesaid case. He further submits that charge-sheet has already been submitted, hence, there is no chance of tampering with the evidence. He further submits that as per Section 8 of the said Act, the offences are bailable and the petitioner deserves to be enlarged on bail. In this connection, he refers to the case of ***Mithilesh Kumar @ Vishwakarma and others Vrs. The State of Bihar***, since reported in ***2004 (1) PLJR 668***, wherein this Court has held that when two options are available to the arresting officer, one is to grant bail if the arrested person is ready to furnish bail bonds or to produce arrested person in custody before the concerned Magistrate, the arresting officer cannot adopt the option prejudicial to arrested person.

However, learned A.P.P. for the State submits that the petitioner is named in the First Information Report, hence, opposes the prayer for bail.

Be that as it may, considering the aforesaid order passed by this Court in the case of ***Mithilesh Kumar @ Vishwakarma and others*** (supra) and considering the period of custody, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Railway

Judicial Magistrate, Patna in connection with R.P.F. Post Rejendra Nagar Patna Case No. 03/2016.

This direction for bail is subject to the condition that petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence and shall appear in the learned Court below, as and when he is directed.

With these observations and directions, this application stands allowed.

(Nilu Agrawal, J.)

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