

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60316 of 2017

Arising Out of PS.Case No. -272 Year- 2017 Thana -GAYA KOTWALI District- GAYA

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1. Dhiraj Pandey Son of Kundan Pandey, Resident of Mohalla-G.B. Road,
in front of Pilgrim Hospital, Police Station-Kotwali, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2

For the Opposite Party/s : Mr. Sri S. Ehteshamuddin

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 22-12-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection
with Kotwali P.S.Case No. 272 of 2017 registered under Sections
467, 468, 420 and 120-B of the Indian Penal Code and Section 11
of the Public Gambling Act.

It is submitted by the learned counsel for the
petitioner that though the petitioner is named in the First
Information Report, no incriminating article has been recovered
from his possession. He submitted that the allegations made in the
FIR are based on hypothetical presumption and wild suspicion.
There is nothing on the basis of which it can be said that the
ingredients of the offences punishable under Sections 467, 468,
420 or 120-B of the Indian Penal Code would be attracted. He



submitted that the Supreme Court in case of **Dr. K.R. Lakshmanan Vs. State Of Tamil Nadu & Anr**[AIR 1996 SC 1153] by referring to Public Gambling Act observed that gambling which rests purely on chance or skill, and as such a game of chance is one in which the element of chance predominates over the element of skill, and a game of skill is one in which the element of skill predominates over the element of chance. He submitted that in **State Of Andhra Pradesh Vs. K. Satyanarayana & Ors** [AIR 1968 SC 825], game of Rummy was held to be mainly and preponderantly a game of skill and held to be not a gambling activity inviting penal consequences. On the basis of the above decisions, he submitted that cricket is purely a game of skill which requires skill. It is not a game of chance but of knowledge, study and practice and, thus, the same would be exempted under Section 12 of the Public Gambling Act from the definition of gambling.

On the other hand, learned counsel for the State submitted that the recovery of registers, several mobile phones and other documents made by the police would clearly indicate that the petitioner and other co-accused persons were involved in gambling and betting, which are punishable in law.

Be that as it may, regard being had to the submissions



made above, in the event of arrest or surrender before the court below within four weeks from today, the petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with Kotwali P.S.Case No. 272 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

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