

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 47861 of 2015

Arising Out of PS.Case No. -90 Year- 2015 Thana -MUSAHARI District- MUZAFFARPUR

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Md. Mokhtar S/o Late Md. Nasir, P.S. Musahari, District Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Harsh Singh, Advocate

For the State : Mr. Md. Arif, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 12-09-2018

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner has moved the Court apprehending
arrest in Musahari P.S. Case No. 90 of 2015 instituted under Sections
414/34 of the Indian Penal Code.

3. By order dated 10.11.2015, the Court had directed for
production of legible up-to-date photocopy of the original case diary
as well as report from the Senior Superintendent of Police,
Muzaffarpur with regard to the position relating to the status of the
vehicles whose registration papers have been recovered from the
shop of the petitioner as disclosed in the F.I.R. and the seizure list.
The Court had also granted interim protection to the petitioner in
view of the stand taken that he is a scrap dealer and no incriminating
articles were recovered from his shop to indicate that he was running
the business on procuring stolen vehicles. The Court had also taken



note of the stand that with regard to the vehicles in question, no complaint or F.I.R. was registered about them being stolen. Since then, the matter was being adjourned as copy of the case diary and report of the Senior Superintendent of Police, Muzaffarpur had not been received. However, the same has now been received.

4. Learned counsel for the petitioner submitted that in majority of cases with regard to vehicles which are sold to scrap dealers, there are no official transactions on paper, either by the original owner or by the agencies, especially the Insurance Company which auctions such condemned vehicles. He further submitted that even the persons relating to whom papers were recovered from the premises of the petitioner, all of them have stated that they had sold their vehicles, except for one Minu Devi, who has stated that one Avinash Kumar had been given the vehicle against getting loan but neither the vehicle was ever returned nor any loan given to her and the said Avinash Kumar was avoiding her. Learned counsel submitted that he has also stated that she did not lodge any police case with regard to the said incident. Learned counsel has filed supplementary affidavit on behalf of the petitioner in which copies of the owner book as well as affidavit of Minu Devi is on record which goes to show that she had sold the vehicle in favour of the petitioner on 17.03.2015 itself i.e., almost three months prior to the date when the articles were recovered by the police. Learned counsel has also drawn the attention of the Court to order dated 09.05.2017, in which



a similarly situated co-accused namely, Jakir Hussain, who was also apprehended on the same charges and was also a scrap dealer was granted the privilege of Anticipatory Bail by order dated 09.05.2017 in Cr. Misc. No. 6500 of 2017 by a co-ordinate Bench. Learned counsel further submitted that the petitioner has clean antecedent.

5. Learned A.P.P., from the case diary, has not been able to controvert the submissions of learned counsel for the petitioner.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon 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, 1st Class, Muzaffarpur in Musahari P.S. Case No. 90 of 2015, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J.)

P. Kumar

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