

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58595 of 2018

Arising Out of PS. Case No.-192 Year-2018 Thana- DARIYAPUR District- Saran

Rahul Kumar S/o Sri Lalan Rai, R/o Vill.- West Balua, P.S.- Doriganj,
District- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Choudhary Shyam Nandan, Advocate
For the State	:	Mr. Md. Arif, APP
For the Informant	:	Mr. Ashok Kr. Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 19-12-2018

Heard learned counsel for the petitioner; learned
A.P.P. for the State and learned counsel for the informant, who
has *suo motu* appeared.

2. The petitioner apprehends arrest in connection
with Dariyapur P.S. Case No. 192 of 2018 corresponding to
G.R. No. 5534 of 2018 dated 24.06.2018 instituted under
Section 379 of the Indian Penal Code.

3. Though the petitioner has not been named as an
accused in the written complaint submitted by the owner of the
tractor which is said to have been stolen but during investigation
it was suspected that he was involved and, thus, apprehending
arrest, he has moved the Court in the present application, after
such prayer was rejected by the 1st Additional Sessions Judge,



Saran at Chapra in A.B.P. no. 2734 of 2018 on 28.08.2011.

4. As per the F.I.R., the tractor of the informant of which the petitioner was a driver was parked at 9.00 P.M when the petitioner had to go for call of nature and when he returned, the tractor was missing and even after search when it was not found, the owner was informed leading to lodging of the F.I.R.

5. Learned counsel for the petitioner submitted that he was the driver and had gone to attend the call of nature and thus, cannot be said to be in any way involved in the theft of the tractor. It was further submitted that only due to there being some differences with the owner relating to wages, suspicion has been cast on him that he had role in the theft. Learned counsel further submitted that the petitioner has no criminal antecedent.

6. Learned APP and learned counsel for the informant submitted that the story made out by the petitioner as narrated in the F.I.R. itself appears to be quite impractical and unbelievable. It was submitted that at 9.00 P.M. in the night on road if at all there is an urgent need to answer the call of nature, a person would hardly go a few metres from the road and answer the same and if at all the tractor was taken away, the same could not have been by pushing it and obviously it was



stolen after being started and driven. It was submitted that a tractor cannot be so noiseless so as not to alert the petitioner that the same was being driven away and, thus, the complicity of the petitioner is quite apparent. Learned counsel further pointed out to the fact that earlier the Court by order dated 29.10.2018, while granting interim protection to the petitioner had called for a report from the Investigating Officer as to whether he had appeared for assistance in the investigation. Pursuant thereto, the Superintendent of Police, Saran at Chapra, under letter no. 886 dated 27.11.2018 has informed that the petitioner had come to the police station on 24.11.2018 where he was given notice for coming on 25.11.2018, but he did not appear either on 25.11.2018 or 26.11.2018.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on anticipatory bail.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

