

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16668 of 2019

Arising Out of PS. Case No.-658 Year-2018 Thana- PIRBAHOR District- Patna

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SHAHRUKH @ AAMIR son of Md. Naushad, Resident of Makhania Kuan,
Purvi Gali beside Masjid Gali, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anisur Rahman

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 01-04-2019 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks regular bail in connection with
Pirbahore P.S. Case No. 658 of 2018 for the offences punishable
under Sections 414/34 of the Indian Penal Code.

The case of the prosecution is that on 15.11.2018, the
informant of the present case along with other members of the
police force were on patrolling duty and at about 11 hours, on
the direction of the Senior officer, they started checking vehicle
at Ashok Raj Path, Patna. At about 11.30 hours, two persons
riding on one motorcycle were seen coming from Gandhi
Maidan and the said motorcycle did not have any plate number.
The said motorcycle was then intercepted by the police force
and upon demand of paper pertaining to said vehicle, no paper



could be produced by the riders of the said vehicle, namely, Rahul Kumar and Shahrukh @ Aamir. The said two apprehended accused persons including the petitioner herein had disclosed that in the morning of the same day, they had stolen the said vehicle from Darjee Tola, Sabjibagh.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is further submitted that the motorcycle has not been recovered from the conscious possession of the petitioner and the bona fide of the petitioner is also clear from the fact that no FIR or complaint has been lodged with regard to the said motorcycle in question having been stolen. It is submitted that the petitioner is having a clean antecedent and is languishing in custody since 17.11.2018. Lastly, it is submitted that a co-ordinate Bench of this Court vide order dated 25.2.2019 passed in Cr. Misc. No. 11109 of 2019 has granted regular bail to the co-accused, namely, Rahul Kumar, hence, the petitioner should be enlarged on bail.

I have heard the learned counsel for the parties and perused the materials on record and I find that admittedly, the said motorcycle, even as per statement made in paragraph-7 of the present petition, belongs to one another person, namely,



Shahnawaz son of Shahjad and not to the petitioner from whom the same has been recovered. As far as the grant of bail to the co-accused Rahul Kumar is concerned, a co-ordinate Bench vide order dated 25.2.2019 has observed as follows:-

“In the seizure list it is mentioned that Motorcycle has been recovered from possession of co-accused Sharukh @ Aamir and on search of petitioner, one Mobile phone has been recovered from his possession.”

It is apparent that the co-accused Rahul Kumar was granted bail inasmuch as the stolen motorcycle had been recovered from the possession of the petitioner herein.

Having regard to the facts and circumstances of the case, this Court is not inclined to grant regular bail to the petitioner herein, hence, the present petition is dismissed, however, liberty is granted to the petitioner herein to renew his prayer for bail after a period of three months from today.

(Mohit Kumar Shah, J)

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