

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.17324 of 2019**

Arising Out of PS. Case No.-5 Year-2019 Thana- JHANJHARPUR District- Madhubani

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SUMAN KUMAR SINGH @ MALKHAN SINGH Son of Sri Tapeswar  
Singh, Resident of Village-Neur, P.S - Andharamath, District-Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ajay Thakur, Adv.

For the Opposite Party/s : Mr. Ajay Mishra, APP

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

3      29-05-2019                      The matter has been taken up out of turn on the  
prayer of the counsel for the petitioner Mr. Ajay Kumar  
Thakur with the consent of learned APP on the ground of  
marriage of the sister of the petitioner.

Heard learned counsel for the petitioner and learned  
APP for the State.

The petitioner is languishing in custody since  
29.01.2019 in a case registered for the offences punishable  
under Sections 414, 353, 504, 506/34 of the Indian Penal  
Code, Section 391(viii) of the Bihar Jail Manual and Sections



45(12) and 46 of the Prison Act, 1894.

The prosecution case got initiated on the basis of written report of Assistant Superintendent of Police-cum-I/C Deputy-Superintendent, Jhanjharpur submitted before the Station House Officer, Jhanjharpur Police Station is to the effect that on 10.01.2019 between 6.35 A.M. to 6.50 A.M., search was being made in the jail wards and during the search, various mobile phones were recovered from the possession of prisoners. It is alleged that from the possession of the petitioner, one mobile phone of Tambo Company was recovered.

It is submitted by learned counsel for the petitioner that neither the alleged mobile phone nor the SIM card which was being used in the alleged mobile, has been found registered in the name of the petitioner. Moreover, there is no penal provision under Section 391 (viii) of the Bihar Jail Manual and Sections 45(12) and 46 of the Prisons Act and the investigation has already been concluded. It is further submitted that though the petitioner is accused in eight other cases of similar nature, apart from the present one, but in all those cases, he is on bail. A statement to that effect has been made in paragraph no. 3 of the supplementary affidavit. It is



further submitted that the sister of the petitioner is getting married, though no affidavit to that effect has been filed and simply an invitation card has been produced.

Learned APP for the State submits that the accusation is specific against the petitioner that during judicial custody, a mobile phone was found in his conscious physical possession, which is not permissible under the jail manual. Moreover, the petitioner is having serious criminal antecedent.

Considering the nature of accusation, the petitioner being granted bail in all other cases including in one similar case and the investigation already being concluded, moreover for the alleged recovery by now, the petitioner must have undergone the administrative punishment convicted under Section 46 of the Prisons Act and Bihar Jail manual, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-I, Jhanjharpur, in connection with Jhanjharpur P.S. Case No. 5 of 2019..

Since the petitioner is having serious criminal antecedent, the learned Court below will positively cancel the bail bonds of the petitioner, if he defaults for two consecutive



occasions or substantially gets involved in some serious nature  
of offence.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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