

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19148 of 2019

Arising Out of PS. Case No.-38 Year-2017 Thana- GALGALIYA District- Kishanganj

MD. AKHTAR Son of Late Md. Yasin Resident of Village - Birpur, P.S.-
Pothia, Distt - Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar

For the Opposite Party/s : Mr.Ram Bilash Roy Raman

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

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

Petitioner is languishing in judicial custody since
16.11.2018 in connection with Galgalia P.S. Case No. 38 of
2017 for offences punishable under Sections 379, 411, 413/34 of
the Indian Penal Code.

The prosecution case, as lodged by the police
personnel, is that on secret information that a gang is engaged in
cutting high-tension tower line wire and selling stolen wire in
the market, the police intercepted a pick-up van and
apprehended co-accused Sabu Ghosh, who revealed the name of
co-accused Naisuddin and on their tip off 15-20 persons were
found cutting tower line wire on which two persons were
apprehended, namely, Lal Sabu Sah and Rajendra Mahto and



about 15 persons managed to flee away, who had come on 6 motorcycles. Their names were revealed by one Md. Naisuddin which included the name of the petitioner. Accordingly, petitioner has been made accused in the present case. From the pick-up van 1000 meter high-tension electric wire was recovered.

It has been submitted by the learned counsel for the petitioner that he is innocent, not apprehended by the police and has been named by the apprehended co-accused in their confessional statement before the police which has no evidentiary value in the eye of law. He submits that nothing has been recovered from his conscious possession and the petitioner is languishing in judicial custody for more than four months, charge-sheet having been submitted there being no allegation of tampering with the prosecution witnesses.

However, learned APP for the State opposes the prayer for bail stating therein that petitioner is a habitual offender and is involved in five more cases of similar nature, although the counsel for the petitioner submits that in all the cases he has not been named in the FIR, has been taken on remand and is presently on bail.

Considering the nature of allegations and the fact that



charge-sheet has already been submitted as well as the period of custody, let petitioner, above named, be enlarged 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 Chief Judicial Magistrate, Kishanganj, in connection with Galgalia P.S. Case No. 38 of 2017, subject to the following conditions :

1. One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.
2. Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.
3. If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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