

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23684 of 2019

Arising Out of PS. Case No.-67 Year-2018 Thana- MINAPUR District- Muzaffarpur

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UMESH PRASAD Son of Babu Lal Prasad Resident of Village- Mustafaganj,
P.S.- Minapur, District- Muzaffarpur (Bihar) Pin Code- 843128.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Basant Kumar Tripathy, Adv.

For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

7 04-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 67 of 2018, dated 21.2.2018, registered at Police Station Minapur under Sections 459, 307/34 to which Section 302 of the Indian Penal Code was added later on and 27 of the Arms Act.

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

It is seen that in the F.I.R. name of the petitioner/bail-applicant, namely Umesh Prasad is not mentioned. The offence took place on 21.2.2018 and petitioner is in custody since 21.2.2018. Thus far save and except for one statement of co-



accused, police has not been able to collect any cogent material indicating the complicity of the accused/bail applicant in the alleged crime.

No doubt, crime is serious in nature, but it is seen that even the co-accused Rajeev Kumar @ Rajeev Chaudhary, whose name had surfaced on the alleged confession of the co-accused Dilip Chaudhary and also the accused/bail applicant was arrested, already stands enlarged on bail by a Co-ordinate Bench of this Court on 3.10.2018 in Cr. Misc. No.50656 of 2018 (Rajeev Kumar @ Rajeev Chaudhary Vs. The State of Bihar).

Having given thoughtful consideration to the entire attending facts and circumstances, more so when it is not in dispute that he has fully co-operated in the investigation thus far, none from the family has indicated complicity of this accused, it appears that thus far no case against the petitioner is made out indicating his complicity in the alleged crime.

It is submitted by learned counsel for the petitioner that the petitioner has roots in the society; is not likely to interfere in the investigation or influence any of the witnesses or destroy the evidence; is behind bars since 21.2.2018; no further custodial interrogation is required and he has fully cooperated in



the investigation.

Prima facie, nothing is produced to highlight petitioner's direct involvement in the crime.

Thus, this Court is of the considered view that petitioner has made out a case for grant of bail. Possibility of false implication, as is so alleged by the petitioner, cannot be ruled out. Also, thus far save and except for naming the petitioner in the F.I.R., no evidence corroborative in nature stands recorded by the police. Also, none has come forward to highlight the possible involvement of the petitioner in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.

Be that as it may, having regard to the entirety of the facts and circumstances of the case, let the petitioner, named above, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty five thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur in connection with Minapur P.S. Case No. 67 of 2018 (G.R. No.851 of 2018), on the following conditions:-

- (i) That one of the bailors of the petitioner shall be his close relative.
- (ii) That the petitioner shall not indulge in any similar



offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bonds shall be liable to be cancelled by the learned court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

Any observation made herein shall not be construed to be an expression on the merits of the matter.

Petition stands disposed of in the above terms.

(Sanjay Karol, CJ)

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