

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59106 of 2019

Arising Out of PS. Case No.-188 Year-2015 Thana- DURAULI District- Siwan

HEMANT KUMAR Son of Hareram Harijan Resident of Village- Darauli,
P.S.- Darauli, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manindra Nath Tiwari

For the Opposite Party/s : Mr.Nand Kishore Prasad

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

3 13-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 188 of 2015 dated 21.11.2015 registered at Police Station Darauli, District-Siwan under Sections 364/34 of the Indian Penal Code

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.

According to the informant, petitioner along with co-accused enticed his son and took him away to a distant place.

It is seen that there is delay of four days in filing the FIR and the parties are neighbours. During the course of investigation no witness has come forward to state that the



petitioner was seen in any manner to be taken away or enticed away the victim. Petitioner was working in Kerala and has no link with the crime. He was not even present on the date of occurrence. This is what prima facie, opinion based on the investigation conducted thus far.

Learned counsel for the petitioner states that thus far investigation has not revealed anything incriminating against the petitioner and he has fully co-operated in investigation and no recovery is sought be made from him. Prima facie also it appears that thus far no case against the petitioner is made out indicating his complicity in the alleged crime.

It is further submitted 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 27.03.2019; 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, Siwan, in connection with Darauli P.S. Case No. 188 of 2015 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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