

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61023 of 2019

Arising Out of PS. Case No.-105 Year-2019 Thana- GANDHIMAIDAN District- Patna

VISHAL KUMAR @ ANSHU, Son of Rajendar Prasad Resident of Village -
Natraj Toli, P.S.- Pirbahore, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Pathak

For the Opposite Party/s : Mr.Prem Kumar Jha

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

4 18-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 105 of 2019 dated 24.02.2019 registered at Police Station Gandhi Maidan under Sections 120B and 302 of the Indian Penal Code 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 the case of the prosecution that Tinku Kumar, brother of Purushottam Kumar, deceased, got lodged the FIR that certain persons came and shot dead his brother near Gandhi Maidan.

Well, in the FIR, there is no reference of the



petitioner/ bail applicant Vishal Kumar. Also in the investigation conducted thus far, except for recovery of some money and one mobile, nothing has been recovered from the petitioner. The mobile is not that of the deceased or the informant. Also, money cannot be linked to the crime. Other than that, there is nothing on record which has surfaced revealing complicity of the accused to the crime. On what basis, the accused was arrested after a period of 15 days, the record does not reveal. Thus far direct involvement of the accused in the crime cannot be said to have been revealed. 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 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 10.03.2019 no further custodial interrogation is required and he has fully cooperated in the investigation.

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, 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 Sub Judge-cum-ACJM-17, Patna in connection with Gandhi Maidan P.S. Case No. 105 of 2019 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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