

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69283 of 2019

Arising Out of PS. Case No.-29 Year-2019 Thana- VAISHALI District- Vaishali

Mithilesh Kumar, Son of Dinanath Ray Resident of Village- Chhapra Ass,
P.S.- Paroo, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar

For the Opposite Party/s : Mr.Umeshanand Pandit

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

3 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. 29 of 2019 dated 23.01.2019 registered at Police Station Vaishali, District-Vaishali under Section 395 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.

It is the case of the prosecution that petitioner, amongst others, robbed a truck owner and took away the truck, Rs. 3,000/- and two mobiles.

In the FIR, name of the petitioner is not there. Only on the basis of the confessional statement and that too,



according to the learned counsel for the petitioner, under coercion, petitioner's name stands revealed. Also, four co-accused persons have been granted privilege of bail by co-ordinate Benches of this Court in Cr.Misc. No. 60903 of 2019, 66000 of 2019, Cr. Misc. No. 75062 of 2019, Cr. Misc. No. 60152 of 2019 and Cr. Misc. No. 78037 of 2019.

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 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 09.07.2019; no further custodial interrogation is required. 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 C.J.M., Hajipur, Vaishali in connection with Vaishali P.S. Case No. 29 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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