

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69284 of 2019

Arising out of PS. Case No.-178 Year-2019 Thana- DEEPNAGAR District- Nalanda

GAUTAM KUMAR Son of Subodh Singh Resident of Village - Hardaspur
Diyara, P.S.- Bakhtiyarpur, Distirct- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Viveka Nandsingh, Advocate
For the Opposite Party/s : Mr. S.D. Yadav, APP

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. 178 of 2019, dated 02.07.2019, registered at Police Station Deepnagar under Sections 395 and 412 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 on gun point, the informant was robbed of money. It is matter of record that co-accused, namely, Deepak Kumar already stands granted bail by a co-ordinate Bench of this Court vide order dated 25.11.2019 passed in Cr. Misc. No. 70718 of 2019, titled as Deepak Kumar



Vs. The State of Bihar.

Well, in a case of bail, there cannot be any parity, but be that as it may, investigation thus far has not revealed direct complicity of the accused in the crime, for save and except recovery of certain amount of Rs. 6,000/- (approximately), nothing else has been recovered. Investigation thus far has not revealed any live link between all the accused persons or the accused being present on the spot at the time of crime. It is not a case of conspiracy.

The allegations have been seriously disputed by the petitioner. 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 03.07.2019; no custodial interrogation is required and the petitioner has fully cooperated in the investigation.

Learned Additional Public Prosecutor does not seriously oppose the application.

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, considering the entire attending 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., Nalanda in connection with Deepnagar P.S. Case No. 178 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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