

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72300 of 2019

Arising Out of PS. Case No.-89 Year-2019 Thana- DURAULI District- Siwan

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MUKESH PANDEY S/o Late Raj Mangal Pandey R/o village- Vitauli, P.S.-
Darauli, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Adv.

For the Opposite Party/s : Mr.Nityanand, A.P.P.

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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 Darauli P.S. Case No. 89 of 2019 dated 31.5.2019, registered under Sections 395, 397 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 on 30th of May, 2019, 10-15 unknown miscreants entered his house, armed with weapons and committed an act of robbery. Also they shot a fire-arm as a result of which two persons sustained injury.

Well, investigation conducted thus far does not reveal



complicity of the accused in the crime. They appear to have been named only as suspects.

Learned A.P.P. does not seriously oppose the application.

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 30.9.2019; 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 Additional Chief Judicial Magistrate-3rd in connection with Darauli P.S. Case No. 89 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)

K.C.Jha/-

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