

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74705 of 2019

Arising Out of PS. Case No.-70 Year-2019 Thana- HARSIDHI District- East Champaran

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MUKESH KUMAR @ MUKESH KUMAR MAHATO Son of Sukham Mahato Resident of Village - Singhia Hiban, P.S.- Banjaria, District - East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Adv.

For the Opposite Party/s : Mr.Sanjay Kumar, 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 Harsidhi P.S. Case No. 70 of 2019, dated 23.2.2019, registered under Sections 379 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 the petitioner, along with the other accused, committed theft of property owned by Sanjay Kumar. None has come forward to disclose the identity of the present petitioner in the crime save and except for the confessional statement of accused Dharmendra



Kumar which also is alleged to have been made under coercion. No recovery remains to be effected. The property already stands recovered, i.e. one motorcycle and a few currency notes.

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 in connection with the instant case since 25.6.2019; 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 C.J.M., Motihari, East Champaran in connection with Harsidhi P.S. Case No. 70 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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