

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81160 of 2019

Arising Out of PS. Case No.-227 Year-2019 Thana- DURGAWATI District- Kaimur (Bhabua)

MAMTA SRIVASTAWA W/o Om Prakash Srivastawa Resident of Village-
Dhodiha, P.S.- Nokha, District- Rohtas At present- Jangal Dhusain, Pipraech
Road, Gorkhpur, P.S.- Gutthauriya, District- Gorakhpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar, Adv.

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 11-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 227 of 2019, dated 11.8.2019, registered at Police Station Durgawati under Sections 419, 420, 406, 467, 468, 471, 120(B) 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 accused, including the present petitioner, on the pretext of providing job in the Railways was also collected with the assurance of emolument for certain payment.



It is seen that accused persons, namely Rajesh Tiwari (in Cr. Misc. No.64253/2019), Shahid Zamil Rizvi @ Shahir Jamil Rijvi @ Shahid Jamil Rijbi,(in Cr. Misc. No.64736/2019), Ravindra Kumar, Saroj Kumar Sahani and Mu. Jawed @ Mohammad Javed, (in Cr. Misc. No.65995/2019), Jeetendra Kumar and Gopal Verma,(in Cr. Misc. No.66841/2019) and Sheshnath Chauhan (in Cr. Misc. No.65782/2019), already stand granted bail by co-ordinate Benches of this Court.

Only on the basis of confessional statement of a co-accused who stands enlarged on bail, the prosecution has arrayed the accused as a party in the case.

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 11.8.2019; 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., Bhabua in connection with Durgawati P.S. Case No. 227 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, her 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 herself 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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