

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84416 of 2019

Arising out of PS. Case No.-232 Year-2017 Thana- KUMAR KHAND District- Madhepura

MD. KAUSHAR Son of Jamal @ Md. Jamal Resident of Village - Pokhariya,
P.S.- Sri Nagar, District- Madhepura

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bam Bahadur Jha, Advocate
For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 19-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 232 of 2017, dated 28.11.2017, registered at Police Station Kumar Khand under Section 392 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 co-accused, committed theft of a motorcycle, and as a consequence of the registration of the case, is in custody since 23.06.2019.

It is seen that co-accused already stands granted bail



by different Benches of this Court vide orders dated 27.04.2018 and 23.01.2019, passed in Cr. Misc. No. 16830 of 2018 and Cr. Misc. No. 79181 of 2018, titled as Md. Murtuza Vs. The State of Bihar and Md. Azim Vs. The State of Bihar respectively.

Even though there cannot be any concept of parity in case of grant of bail, however, attending facts reveal the present petitioner to be similarly situated. That apart, thus far no recovery is to be made. 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 23.06.2019; no custodial interrogation is required and the petitioner 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 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 S.D.J.M., Madhepura in connection with Kumarkhand P.S. Case No. 232 of 2017, 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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