

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83583 of 2019

Arising Out of PS. Case No.-75 Year-2017 Thana- JANTA BAZAR District- Saran

Sharma Tiwari, S/o Muneshwar Tiwari, R/o village- Harpur Kothi, P.S.- Janta Bazar, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh

For the Opposite Party/s : Mr.Md. Ataur Rahman

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 17-12-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner in this case is seeking anticipatory bail in connection with Janta Bazar P.S. Case No.75 of 2017 registered for the offences punishable under Sections 414, 420, 467, 468, 471 and 120B/34 of the Indian Penal Code.

Learned counsel for the petitioner has drawn the attention of this Court towards the allegations made in the written report submitted by Sri Bhagwan Singh, Sub-Inspector of Police which has given rise to the First Information Report dated 06.05.2017 in respect of the alleged recovery of motorcycle from the shop on 21.04.2017. Learned counsel submits that this court may first take note of the fact that the alleged seizure is said to have taken place on 21.04.2017 but the



FIR was lodged on 06.05.2017 and it was sent to the court of learned Additional Chief Judicial Magistrate, Saran only on 15.05.2017. It is further pointed out that no seizure list of the motorcycle was submitted and it appears that the seizure list has been sent later on after a delay of one year four months as it has been seen by learned ACJM-V on 19.09.2018. Pointing out the discrepancies, learned counsel submits that the allegation against the petitioner is that the key of the motorcycle which is said to be a stolen motorcycle has been recovered from his possession but the fact is that no such recovery has been made and it appears that after seizure of the motorcycle the concerned Sub-Inspector who claims to have seized the same with a duplicate key said to have from this petitioner, but there is no seizure list of the key from his possession. The papers of the motorcycle were allegedly found in the name of son of this petitioner who has been granted bail by this Court in Cr.Misc.No. 71349 of 2018.

Learned APP for the State is present and has opposed the prayer for anticipatory bail of the petitioner.

Considering the facts and circumstances of the case, the aforesaid discrepancies that no seizure of the key has been shown, the FIR itself has been lodged after fifteen days showing



recovery of motorcycle with duplicate key and then the said FIR was sent on 15.05.2017 to the court below and after one year four months the seizure list of motorcycle only was sent to the court below, noticing the discrepancies in the prosecution story, this Court directs that in the event of his arrest or surrender within a period of four weeks from today, the petitioner abovenamed shall be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Saran at Chapra in connection with Janta Bazar P.S. Case No.75 of 2017, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.



At this stage, this Court would also direct the Superintendent of Police, Saran at Chapra to look into the manner in which the FIR has been lodged and reported to the court below with substantial delay and further as to why the seizure list of the motorcycle was sent after delay of one year four months and where was the motorcycle lying during all these periods and whether the motorcycle was being used or misused by any of the police officer particularly the I.O. of the case who had not submitted the seizure to the court below for 1 year 4 months. An appropriate view of the matter shall be taken after conducting an enquiry and report will be sent to this Court within two months.

This Court would also observe that in such matters, if these discrepancies and delay in submission of seizure list is so apparent it becomes duty of the concerned C.J.M. also to notice the conduct of the I.O. and bring it to the notice of the competent authority for appropriate direction.

This application stands disposed of. The report as above shall be placed for perusal only.

(Rajeev Ranjan Prasad, J)

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