

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20553 of 2020

Arising Out of PS. Case No.-453 Year-2019 Thana- FORBESGANJ District- Araria

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MUKESH PANDEY @ BIRJU PASWAN, Son of Late Mahadeo Pandey,
Resident of Mohalla - Subhas Chock, Ward No. 01, P.S.- Farbesganj, Distt -
Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-07-2020 The matter has been taken up through virtual Court
proceeding.

Since the physical Court is not functional due to the
present pandemic, Covid-19, the matter has been listed with
defects.

Learned counsel for the petitioner undertakes to
remove the defects within a period of three weeks on
resumption of physical court proceeding.

In case of non-removal of the defects within the
undertaken period, the office will place the matter before the
Bench.

Heard learned counsel for the petitioner and learned
APP for the State.



The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 468 and 420 of the Indian Penal Code, 1860.

The prosecution case as per the written report of Kaushal Kumar, Sub Inspector of Police submitted before the S.H.O., Farbisganj is to the effect that the petitioner made confession in Farbisganj P.S. Case No. 424 of 2019, registered for the offences punishable under Section 399/402 of the Indian Penal Code, 25(1-B)a, 26, 35 of the Arms Act and Sections 4, 5 of the Explosive Substances Act that he purchased a mobile SIM on a forged name from one Md. Tabrez and by using the said SIM, he demanded extortion from a businessman of Farsbiganj, namely, Mulchand Golcha, leading to registration of the present case.

It is submitted by learned counsel for the petitioner that even assuming the accusation to be true, no case under section 468/420 of the Indian Penal Code is made out against the petitioner and since no extortion amount was paid, hence, the accusation at best, constitutes the offence under Section 385 of the Indian Penal Code which is bailable. Though the petitioner is accused in eight other cases, but in three, out of eight cases, he has been acquitted. The petitioner is languishing in custody since 27.06.2019 and the investigation has already been



concluded.

Learned APP for the State submits that there is specific accusation of demanding extortion from a businessman by using SIM which was bought fraudulently and the petitioner has criminal antecedent.

Considering the nature of accusation and in view of the fact that the investigation has already been concluded, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned C.J.M., Araria, in connection with Farbesganj P.S. Case No. 453 of 2019.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned



C.J.M., Araria, in connection with Farbesganj P.S. Case No. 453
of 2019.

The learned Court below will further be at liberty to
extend the period of provisional bail further if the court
proceeding in physical mode will not resume in next three
months.

Accordingly, the present application stands disposed
of.

(Dinesh Kumar Singh, J)

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