

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14280 of 2020

Arising Out of PS. Case No.-2 Year-2017 Thana- DARAUNDA District- Siwan

Mukendra Kumar Baitha @ Mukendra Baitha, Male, aged about 27 years,
Son of Shiv Kumar Baitha Resident of Merhi, PO-Merhi, P.S.-M.H. Nagar,
Hasanpura, District-Siwan, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate
For the Opposite Party/s: Mr. Arun Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 29-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Surendra Kishore Thakur, learned counsel for the petitioner and Mr. Arun Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Daraunda (M.H. Nagar) PS Case No. 2 of 2017 dated 03.01.2017 instituted under Section 392 of the Indian Penal Code.

4. The allegation against the petitioner is that he along with two other persons had forcibly entered the house of the informant and looted various articles.



5. Learned counsel for the petitioner submitted that he is not named in the FIR and only later, in the statement before the police, the informant has stated that her daughter-in-law Priyanka Devi had identified the petitioner and another person. Learned counsel submitted that the petitioner has been falsely implicated as clearly the incident is said to have taken place at 9:00 pm on 02.01.2017 whereas FIR has been lodged on the next date at 11:15 am, i.e., after 14 hours and, thus, there being no name taken of any accused in the FIR clearly shows that the name given later was due to false implication. Learned counsel submitted that after 14 hours when the FIR was lodged there was no occasion not to mention the name of the petitioner as there would have been discussion in the house relating to the incident in which, if at all, the petitioner was identified, his name would have been disclosed in the FIR itself. Learned counsel submitted that the petitioner has no other criminal antecedent and is in custody since 08.01.2020 and further that there has been no recovery from him. It was submitted that the petitioner is a co-villager and due to local dispute he has been falsely implicated.

6. Learned APP, from the case diary, submitted that the daughter-in-law of the informant was an eye witness and had



recognized the petitioner. However, he could not controvert the fact that the FIR has been lodged after many hours but in the same no name was taken and only in the further statement before the police the same has been done.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the concerned Judicial Magistrate 1st Class, Siwan in Daraunda (M.H. Nagar) PS Case No. 2 of 2017, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.



8. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

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