

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21817 of 2020

Arising Out of P.S. Case No.-27 Year-2020 Thana-Sohsarai District- Nalanda at Bihar Sharif

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Awadhesh Gupta @ Awadesh Prasad aged about 45 years (male) son of
Ramchandra Halwai, resident of Mohalla- Western of Bijali Office, Harnaut,
Police Station- Harnaut, District- Nalanda.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Anil Kumar Singh, Advocate
For the Opposite Party : Dr. Mritunjay Kumar Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 16-07-2020 Filing through email of the present application has

been accepted in view of the out-break of COVID-19 Pandemic

and has been posted before me for hearing through video

conferencing.

The application is apparently not in accordance with

the provisions prescribed under the Patna High Court Rules,

which do not contemplate filing of application through email. In

spite of that, considering the extra-ordinary situation, filing of

the present application has been allowed through email.

Considering the situation prevailing, the Court has

considered, for the present, to ignore the deficiency in filing of

the application.



Heard Mr. Anil Kumar Singh, learned counsel for the petitioner and Dr. Mritunjay Kumar Gautam, learned Additional Public Prosecutor for the State.

The petitioner seeks pre-arrest bail in connection with Sohsarai P. S. Case No. 27 of 2020 registered under Sections 379, 420 and 506 of the Indian Penal Code.

It is submitted by learned counsel for the petitioner that the driver of the truck after loading onion packets proceeded from Biharsharif to Purnea, and, on the way, at about 1 a.m., when he reached near Raghunath Line Hotel at NH-31, as he was tired, he took rest on a cot and fell into deep sleep. When he woke up, he found that the truck in which he had also kept his mobile phone, was missing. Immediately, he informed the owner of the truck. Thereafter, on the next date, at about 10 a.m., the owner received an information that his truck was lying at Naugachhia Toll Tax. When the petitioner went there, he found the truck having been parked by the side of the road, but the loaded onion and other goods were not on the truck. It is further contended that in this regard, the petitioner went to Sahebpur Kamal Police Station and lodged the case bearing Sahebpur Kamal P.S. Case No. 308 of 2019 dated 14.10.2019 under Sections 379 and 411 of the Indian Penal



Code. It is also contended that the instant case has been instituted by the informant without realizing the aforesaid fact.

Learned Additional Public Prosecutor appearing for the State has opposed the prayer for grant of pre-arrest bail to the petitioner. He contended that on 13.10.2019, 101 packets of onion were loaded on the truck which proceeded from Biharsharif to Purnea. But before the truck could reach Purnea, booked onion were removed because of that the informant has sustained a loss of Rs.2,4520/-.

Regard being had to the nature of the offence, allegations made in the FIR, the submissions advanced on behalf of the petitioner and the statement made in para 3 of the application that he has got no criminal antecedent, in the event of his arrest or surrender, he is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nalanda at Biharsharif in connection with Sohsarai P. S. Case No. 27 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Since, there is a State wide lockdown, the Court has considered it appropriate to adopt the following procedure for



communication of the present order :-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my email id to the Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the order be sent to Mr. Anil Kumar Singh, learned counsel for the petitioner also on his email.
- (v) Let steps be taken by the Secretary for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

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