

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22594 of 2020

Arising Out of PS. Case No.-336 Year-2019 Thana- KISHANGANJ District- Kishanganj

MD. PHOOL @ PHOOL BABU @ FULL BABU Son of Aftab Alam
Resident of Village- Kajlamani, P.S.- Kishanganj, Distt- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Chandra

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-08-2020 The matter has been taken up through virtual Court proceeding.

Since the Court is not functional in physical mode 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 four 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 147, 148, 149, 341, 323, 332, 333, 353, 337, 338, 384 and 307/34 of the Indian Penal Code.

The prosecution case as per the self statement of Manish Kumar, Inspector-cum-S.H.O., Kishanganj recorded on 11.07.2019 at 9.30 P.M. at Excise Check Post is to the effect that on the same day, the informant received a secret information that accused persons of Kishangan P.S. Case Nos. 128 of 2019, 130 of 2019 and 309 of 2019, particularly, co-accused, Gulam Mustafa, Aarif Khan, Sanju Chauhan and the petitioner are extorting money from the vehicles entering into the State of Bihar from Bengal border claiming to be entry tax. Consequently, a raid was laid when three persons started fleeing away on a motorcycle from the scene. Though chase was made but they managed to escape from there. Thereafter, the premises of co-accused, Gulam Mustafa was raided where 8-10 accused persons attacked on the police personnel and subsequently, three persons were apprehended, i.e., co-accused, Gulam Mustafa, Jawed and Arif Khan. From their possession, gold jewellery, Rs.24000/- and mobile phone were recovered. On enquiry, they disclosed that they extorted money from the different vehicle's drivers. Though the petitioner was not named in the FIR but his



name sprang up during investigation. Subsequently, he made confession before the police that he extorted money along with co-accused, Gulam Mustafa.

It is submitted by learned counsel for the petitioner that the petitioner is not named in the FIR, but only on the basis of suspicion, the petitioner has been named in the present case. The FIR named co-accused, Arif Khan has been granted bail by a co-ordinate bench of this Court vide order dated 20.12.2019 passed in Criminal Miscellaneous No. 62850 of 2019. It is further submitted that though the petitioner is accused in two other cases, but he is on bail in those cases.

Learned APP for the State submits that the name of the petitioner sprang up during investigation and he confessed his guilt.

Considering the fact that the investigation has already been concluded, the petitioner is not named in the FIR and the FIR named co-accused, has been granted bail by a Co-ordinate bench of this Court, 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 Judicial Magistrate-I, Kishanganj, in connection with Kishanganj P.S. Case No. 336 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 Judicial Magistrate-I, Kishanganj, in connection with Kishanganj P.S. Case No. 336 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 application stands disposed of.

(Dinesh Kumar Singh, J)

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