

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23663 of 2020**

Arising Out of PS. Case No.-530 Year-2019 Thana- MOHANIYA District- Kaimur (Bhabua)

Dimpal Yadav, S/o Kalika Yadav, R/o Village- Baduri, P.S.- Durgawati,
District- Kaimur at Bhabua.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 16-12-2020 Learned counsel for the petitioner undertakes to remove all the defects pointed by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case is seeking pre-arrest bail in connection with Mohania P.S. Case No. 530 of 2019 registered for the offences punishable under Section 395 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the prosecution story the onion loaded truck was intercepted by miscreants who overpowered the driver and then unloaded the onion from the vehicle and thereafter the present F.I.R. was



lodged by the driver of the vehicle. He has alleged that he was assaulted by the five miscreants who had come out of one white colour Maruti.

Learned counsel for the petitioner submits that on the next day of the alleged occurrence one Sonu Kumar who is the co-accused was arrested and he disclosed the name of other accused but he did not name this petitioner. Later on, on the basis of the mobile locations of the place of occurrence co-accused Santosh Kumar Singh was arrested by the Police and his statement was recorded on 03.02.2020. In his confessional statement extracted by Police the name of the petitioner has transpired as one of the associates.

Learned counsel submits that the petitioner has been falsely dragged in this case because of his one criminal antecedent in connection with one case under Bihar Prohibition and Excise Act, 2016 in which he is on bail. It is submitted that the informant has also talked about the five persons who had intercepted him after coming out of the Maruti car and then the co-accused Sonu Kumar had specifically named all the accused who were accompanying him but the name of the petitioner was not there. Police has not found even mobile location of this petitioner on the spot and no incriminating article has been



recovered from the possession of the petitioner.

On the other hand, Mr. Akhileshwar Dayal, learned A.P.P. for the State has after going through the case dairy submitted that the name of this petitioner has transpired in the statement of co-accused Santosh Kumar Singh who was arrested later on. It is, however, submitted that the mobile location of this petitioner was not found on the spot and with the name of this petitioner altogether six persons have been made accused in this case whereas the informant and co-accused Sonu had consistently stated about five accused involved in the alleged occurrence.

Having regard to the facts and circumstances of the case and the kind of materials noticed hereinabove, since the name of the petitioner did not transpire in the confessional statement of co-accused Sonu Kumar who was first arrested and the name of this petitioner has come in this case after more than a month on the basis of confessional statement of co-accused Santosh Kumar Singh but no mobile location of the petitioner has been found and no other incriminating article has been recovered from his possession, he has not been identified by the informant and there is no submission that the petitioner if released on pre-arrest bail may not co-operate in course of trial,



this Court directs the petitioner above named in the event of his arrest or surrender within a period of four weeks from today be enlarged on bail on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kaimur at Bhabua in connection with Mohania P.S. Case No. 530 of 2019, 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.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of



bail bond of the petitioner.

This application is allowed.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

