

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28852 of 2020

Arising Out of PS. Case No.-115 Year-2020 Thana- BHORE District- Gopalganj

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HARI BHUSHAN GIRI Son of Late Vishwash Giri Resident of Village-
Deurawa, P.S.- Bhorey, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dhramveer

For the Opposite Party/s : Mr. Tarun Prasad Mandal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-11-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel appearing for the petitioner and Shri Tarun Prasad Mandal, learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Bhorey P.S. Case No. 115 of 2020 for the offence punishable under Sections 363/34 of the Indian Penal Code.

At the outset, it has been pointed out by the learned counsel for the petitioner that the police has submitted final form in the present case and charge sheet has not been filed against the petitioner herein on account of lack of evidence, hence the petitioner is fit to be granted bail.



This Court has pointed out to the learned counsel for the petitioner that the impugned order rejecting the prayer of the petitioner for grant of bail has been passed on 29.06.2020, however, the charge sheet/final form has been filed only thereafter i.e. on 27.07.2020 inasmuch as the said date is the date on which the learned C.J.M. has endorsed upon the charge sheet / final form regarding him having seen the same, hence it would be appropriate for the petitioner to approach the learned court below for grant of bail and bring the aforesaid fact to the notice of the learned court below since this Court cannot hold the impugned order dated 29.06.2020 to be bad in law especially when the aforesaid new factum of the final form having been submitted qua the petitioner herein, was not before the learned court below.

At this stage, the learned counsel for the petitioner seeks to withdraw the present petition with liberty to move the learned court below for grant of regular bail, by bringing the aforesaid new fact to the notice of the learned Court below.

Accordingly, the present petition stands disposed off as not pressed, however, with liberty to the petitioner to approach the learned court of C.J.M., Gopalganj in connection with Bhorey P.S. Case No. 115 of 2020, for the purposes of grant of



regular bail, so that the aforesaid new fact can be brought to the notice of the learned court below, which shall then adjudicate the petition of the petitioner for grant of regular bail on merits, by taking into account the aforesaid new fact of the charge sheet having not been filed against the petitioner herein and without being prejudiced by the rejection of the petition of the petitioner for grant of bail by the impugned order dated 29.06.2020.

(Mohit Kumar Shah, J)

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