

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58496 of 2019

Arising Out of PS. Case No.-394 Year-2018 Thana- DARIYAPUR District- Saran

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KUNDAN RAI Son of Shankar Rai @ Shankar Ray Resident of Village -
Nagwa, P.S.- Dariyapur, Distt - Saran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Srivastva, Adv.

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 27-05-2020 The matter has been taken up through virtual Court proceeding.

Heard Mr. Vijay Kumar Srivastava, learned counsel for the petitioner and Mr. Brajendra Nath Pandey, learned APP for the State.

The petitioner who is in custody since 01.12.2018 has renewed the prayer for bail in connection with a case registered for the offences punishable under Sections 363, 364, 367 and 370/34 of the Indian Penal Code.

The prosecution case got initiated on the basis of written report of Dipak Rai submitted before the Station House Officer, Dariyapur Police Station which is to the effect that on 28.11.2018 at 3.00 P.M., the informant's son went to buy chocolate, but he got traceless. Through a secret information,



the informant came to know that his cousin (brother) Kundan Rai, the petitioner along with his son-in-law, Rajesh Rai have kidnapped the son of the informant.

It is submitted by learned counsel for the petitioner that for the occurrence of 28.11.2018 at 3.00 P.M, the written report was submitted on 29.11.2018 merely on suspicion, in the background of land dispute. Moreover, the informant has retracted from the initial version and has filed a petition to that effect before the learned Court below and similarly situated co-accused, Rajesh Rai has been granted bail by a Co-ordinate Bench of this Court vide order dated 05.08.2019 passed in Criminal Miscellaneous No.31323 of 2019. The investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. It is further submitted that the petitioner is, at present, admitted in a hospital and he is required to undergo surgery for stones in gallbladder, but no affidavit to that effect has been brought on record.

Learned APP for the State submits that there is specific accusation against the petitioner in the FIR, but he does not controvert the statement of learned counsel for the petitioner that similarly situated co-accused has been granted



bail by a Co-ordinate Bench of this Court.

Considering the fact that the accusation has been levelled on mere suspicion, the petitioner is not having any criminal antecedent, similarly situated co-accused has been granted bail by a Co-ordinate Bench of this Court and the informant has retracted from the initial version, 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 ACJM-IV, Saran at Chapra, in connection with Dariyapur P.S. Case No. 394 of 2018.

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



ACJM-IV, Saran at Chapra, in connection with Dariyapur P.S.
Case No. 394 of 2018.

The learned Court below is at liberty to further extend
the period of provisional bail if the lock down is not over in next
three months.

(Dinesh Kumar Singh, J)

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