

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71282 of 2019

Arising Out of PS. Case No.-76 Year-2019 Thana- KASHICHAK District- Nawada

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ASHISH KUMAR @ ASHISH TANTI Son of Ram Chandra Tanti Resident
of Village Murgiachak, P.S. - Warisaliganj, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 04-06-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner and learned
APP for the State.

The present application has been preferred with a
prayer for grant of bail in a case registered for the offences
punishable under Sections 365, 302, 201, 34 of the Indian Penal
Code.

The prosecution case as per the written report of
Alakh Yadav submitted before the S.H.O., Sahpur (O.P.) is to
the effect that grand-son of the informant Gaurav Kumar aged
about 13 years went traceless since 17.05.2020, leading to
registration of FIR against unknown. During course of
investigation, the neighbour of the informant, Dalo Yadav



disclosed that he saw the victim, Gaurav Kumar travelling on a red coloured motorcycle with a person aged about 20-25 years. Similar is the statement of agnate of the informant, Alok Kumar recorded in paragraph no.11 of the case diary. The call details report of the mobile phone of the petitioner suggest that the petitioner was in constant touch with the victim. Subsequently, the mobile phone and the red coloured motorcycle was recovered from the possession of the petitioner. Thereafter, the confessional statement of the petitioner was recorded on 22.05.2019 wherein he admitted that he kidnapped the grand-son of the informant on 17.05.2020.

It is submitted by learned counsel for the petitioner that only on the basis of suspicion, the accusation has been levelled. There is no eye witness to the occurrence. The victim was in habit of purchase of golgappa from the shop of the petitioner and hence, he has been roped in the present case. The recovered body is of a person who is aged about 30-35 years whereas the victim is about 13 years old. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, similarly situated co-accused, Mithilesh Manjhi @ Mithu Manjhi,



whose name also sprang up on the confession of co-accused, has been granted bail by a Co-ordinate Bench of this Court vide order dated 26.09.2019 passed in Criminal Miscellaneous No. 57241 of 2019.

Learned APP for the State submits that the name of the petitioner sprang up during investigation and the call details report of the mobile phone of the victim suggest that the petitioner had called the victim just before the occurrence and he confessed his guilt.

Considering the fact that the accusation is based on circumstantial nature of evidence, the investigation already being concluded, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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-VI, Nawada, in connection with Kashi Chak (Shahpur O.P.) P.S. Case No. 76 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 ACJM-VI, Nawada, in connection with Kashi Chak (Shahpur O.P.) P.S. Case No. 76 of 2019.

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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