

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83908 of 2019

Arising Out of PS. Case No.-34 Year-2005 Thana- NAYAGAON District- Saran

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KAMESHWAR RAI @ KAMLESWAR RAY Son of Late Singheshwar Rai
Resident of Village - Lakhanpur Tal, P.S. - Desari, District - Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh, Adv.
For the Opposite Party/s : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 30-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The matter has been taken up through virtual Court proceeding.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Section 364 and 379/34 of the Indian Penal Code, 1860. and the chargesheet has been submitted under sections 396/412 of the Indian Penal Code, 1860.

The prosecution case as per the fardbeyan of Sailendra Rai, recorded by C.S. Kumar, S.I-cum-S.H.O., on 05.06.2005 at 4.00 P.M. is to the effect that the informant is a driver of a truck whose owner is Vijay Singh and cleaner is Teju Sah. It is alleged that on 24.06.2005, the informant and other truck driver, Bhullar



Sah loaded rice from Karakat in two trucks and the said rice was to be unloaded at Siwan and Chapra respectively, but on the way, the informant found that the other truck was not being driven by the driver, Bhullar Sah, whereupon, he informed about the same to the police. Subsequently, the dead bodies of the other truck's driver, Bhular Sah and cleaner, Teju Sah, were recovered. The name of the petitioner sprang up on the confession of co-accused.

It is submitted by learned counsel for the petitioner that there is no recovery from the possession of the petitioner nor the petitioner has been put on Test Identification Parade. The petitioner is languishing in custody since 29.06.2019 and the investigation has already been concluded. Learned counsel for the petitioner further submits that since no process has ever been served upon the petitioner, he could not appear. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the name of the petitioner sprang up during investigation and the chargesheet has been submitted declaring the petitioner as absconder.

Considering the rival submissions of the parties, since the name of the petitioner sprang up on the confession of co-



accused and the fact that the investigation has already been 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 FTC-II, Chapra, in connection with Nayagaon P.S. Case No. 34 of 2005 (S. Tr. No.659 of 2015).

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 FTC-II, Chapra, in connection with Nayagaon P.S. Case No. 34 of 2005 (S. Tr. No.659 of 2015).

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.

In view of the criminal antecedent of the petitioner, the learned Court below is at liberty to cancel the bail bonds of the petitioner, if he defaults for three consecutive occasions.

(Dinesh Kumar Singh, J)

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