

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32069 of 2020

Arising Out of PS Case No.-312 Year-2019 Thana- GAIGHAT District- Muzaffarpur

Kundan Kumar, Male, aged about 40 years, Son of Chhatri Rai, Resident of Jaganiya, PS- Gaighat (Wrongly Mentioned as Benibad (OP) in F.I.R.), District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Jha, Advocate
For the State : Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 22-03-2021

Heard Mr. Ajay Kumar Jha, learned counsel for the petitioner and Mr. Umeshanand Pandit, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Gaighat PS Case No. 312 of 2019 dated 12.09.2019, instituted under Sections 380/511/414/34 of the Indian Penal Code.

3. The allegation against the petitioner is that he had gone to commit theft in the house of the informant but on cry he ran away and on search the villagers found an unknown motorcycle which two persons had come to take away in the morning at 4 AM but one person ran away and the other person



with the motorcycle was caught and he disclosed that the person who has fled away was the petitioner.

4. Learned counsel for the petitioner submitted that he has no criminal antecedent and there is nothing to connect him to the attempted theft. It was submitted that though the motorcycle which was found near the place of occurrence belonged to him but as he was passing through and the motorcycle had developed snag, he had left it there and would have come to take it in the morning.

5. Learned APP submitted that the petitioner was of a different village and, thus, there was no occasion for him to come to the village of the informant at midnight if it is to be believed that the motorcycle had developed snag. Further, there is also no explanation as to why the petitioner would leave the motorcycle unguarded without informing any household member that he was leaving his motorcycle due to technical snag and further, that the petitioner had come with another friend who was caught with his motorcycle whereas there is no explanation why the petitioner had fled away.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

7. Accordingly, the application stands dismissed.



8. However, in view of submission of learned counsel for the petitioner, it is observed that if the petitioner appears before the Court below and prays for bail, within four weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

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