

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37707 of 2020

Arising Out of PS. Case No.-182 Year-2018 Thana- ATHMALGOLA District- Patna

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Gautam Kumar, aged about 22 years, Male Son of Sukesh Singh, Resident of
Village- Achuara, PS- Barh, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the State : Mr. Yogendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Arun, learned counsel for the petitioner and Mr. Yogendra Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Athmalgola PS Case No. 182 of 2018 dated 10.08.2018, instituted under Section 392 of the Indian Penal Code.

4. The allegation against the petitioner, though not named in the FIR, is that he was party to the looting of the motorcycle and mobile of the informant.

5. Learned counsel for the petitioner submitted that he has nothing to do with the entire episode and is being harassed by the police in the case. It was submitted that one co-accused was



apprehended from whom the looted mobile was recovered and, on his confession, other co-accused were apprehended, but he has not taken the name of the petitioner. It was submitted that the police thereafter arrested one Vikash Kumar, as the looted motorcycle was parked near his house and then the police have shown that he has confessed and has taken the name of Gautam Kumar, who had assisted in purchase of the stolen motorcycle. Learned counsel submitted that even as per the confessional statement, the name is Gautam Kumar, but he is said to be son of Saroj Kumar whereas, though the petitioner is also named Gautam Kumar, but he is son of Sukesh Singh. Learned counsel submitted that in the village of the petitioner, there are four persons named Gautam Kumar. Thus, it was submitted that the petitioner is not Gautam Kumar who has been named by co-accused Vikash Kumar and most importantly, he has no connection with the crime. Learned counsel submitted that though the petitioner has one other case against him being Barh PS Case No. 271 of 2018, but the same is under Sections 307/34 of the Indian Penal Code in which he is on bail and the same has also been lodged due to fight in the village.

6. Learned APP submitted that co-accused from whom the looted motorcycle was recovered has taken the name of the petitioner. However, in view of the categorical statement made on



oath in paragraphs no. 8 and 9 of the present petition, learned APP could not explain the contradiction in the name of the father of the petitioner.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Barh, Patna in Athmalgola PS Case No. 182 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent



on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

9. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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