

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No. 37736 of 2020**

Arising Out of PS. Case No.-196 Year-2020 Thana- BARAULI District- Gopalganj

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Gautam Mahato, Male, aged about 28 years, Son of Late Regu Mahato,  
Resident of Village - Bhainsahi, PS - Barauli, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Setu Prateek, Advocate  
For the State : Mr. Nand Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date : 23-08-2021**

The matter has been heard *via* video conferencing.

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

3. The petitioner apprehends arrest in connection with Barauli PS Case No. 196 of 2020 dated 27.07.2020, instituted under Sections 461 and 379 of the Indian Penal Code.

4. The allegation against the petitioner and three other co-accused is of stealing 300 cartons of eggs, 200 pieces of fodder, two Exide batteries and one water motor from his chicken farm, the loss being of Rs. 3.28 lakhs.

5. Learned counsel for the petitioner submitted that only on suspicion, that too on the basis of some information



received by the informant, the petitioner has been named, without there being any recovery from his place of any of the items alleged to have been stolen. It was submitted that because of the petitioner being in the process of lodging a complaint against the informant for causing nuisance by running a chicken farm, he has been made accused. It was further submitted that the petitioner has no other criminal antecedent.

6. On the aforesaid stand of learned counsel for the petitioner, the Court on 23.07.2021, had asked learned APP to obtain the up-to-date legible photo copy of the entire case diary of Barauli PS Case No. 196 of 2020, from the Superintendent of Police, Gopalganj as also a specific report whether after lodging of the FIR, the police had gone to the place of the accused for verifying the correctness of the allegation.

7. Learned APP submitted that he has received both the case diary and the report from which it appears that the police had gone to the house of the accused, including the petitioner, and upon search, no articles which are alleged to have been stolen have been recovered.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of there being no recovery made from the house of the petitioner



when the police had gone to raid as also the petitioner having no other criminal antecedent, the Court is persuaded to allow the prayer for pre-arrest bail.

9. Accordingly, 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 Judicial Magistrate 1<sup>st</sup> Class, Gopalganj in Barauli PS Case No. 196 of 2020, 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 and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions 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.



11. The petition stands disposed of in the  
aforementioned terms.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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