

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37604 of 2020

Arising Out of PS. Case No.-46 Year-2018 Thana- BALIYA District- Begusarai

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Md Sanaullah, aged about 26 years, Gender-Male, son of Md. Jahangir, resident of Ward No. 4, Chhoti Ballia Saidan Chak, P.S.- Ballia, District-Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abul Kalam, Advocate
For the State : Mr. Shyameshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-02-2021

Heard Mr. Abul Kalam, learned counsel for the petitioner and Mr. Shyameshwar Dayal, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Ballia PS Case No. 46 of 2018 dated 04.03.2018, instituted under Sections 420/406/382/34 of the Indian Penal Code.

3. The allegation against the petitioner, though not named in the FIR, is that he was one of the persons, who participated in the theft of the vehicle of the informant.

4. Learned counsel for the petitioner submitted that in



the First Information Report, the informant has stated that he along with driver went with one unknown person, who had taken the vehicle on rent for transporting carrot, but when the vehicle was taken there were six persons, who had covered their face and were armed with firearms and they had forced the informant and the driver down and had tied their hands and feet and had taken away the vehicle. It was submitted that only in the re-statement of the informant, he has stated that the petitioner was also one amongst the six miscreants. Learned counsel submitted that the FIR itself has been lodged after seven days for which there is no explanation. Moreover, it was submitted that when in the FIR the informant has not recognized the persons and has stated that he could recognize only the person who had taken the vehicle on hire and was travelling with them, it is surprising as to how he has taken the specific name of the petitioner in the re-statement. Learned counsel for the petitioner submitted that the petitioner is in custody since 17.09.2019.

5. Learned APP submitted that the petitioner has been identified as one of the persons who had taken away the vehicle of the informant. However, he could not controvert the fact that in the First Information Report, the informant has not identified



the six miscreants, but later in the re-statement he has specifically taken the name of the petitioner without any explanation as to why he did not take the name in the first instance itself if he had recognized the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let 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 CJM, Begusarai, in Ballia PS Case No. 46 of 2018, subject to the conditions (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.



7. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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