

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.732 of 2021

Arising Out of PS. Case No.-118 Year-2019 Thana- KOPA District- Saran

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SANTOSH KUMAR SINGH @ SANTOSH SINGH Son of Late Bhajan
Singh Resident of Village - Chatra, P.S. - Kopa, District - Saran at Chapra
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh- Sr. Advocate

For the Opposite Party/s : Mr. Md. Aslam Ansari- A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 17-08-2021 Heard Mr. Bindhyachal Singh, the learned Senior

Advocate for the petitioner and Md. Aslam Ansari, the learned

APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Kopa P. S. Case No.118 of 2019, instituted for the offences under Sections 341, 342, 323, 324, 379, 504, 506, 447, 448, 34 of the Indian Penal Code and later on, Section 307 of the I.P.C. was also added.

It has been alleged in the F.I.R. that the petitioner ordered to assault the informant and he himself participated in the assault. The petitioner is alleged to have given a *farsa* blow on the head of the informant. Thereafter the informant claims to have been assaulted by one Mannu Singh who has been granted anticipatory bail by a Bench of this Court.

It has been submitted that on the date of the occurrence, the petitioner was posted as a Constable at the



residence of the Senior Superintendent of Police, Arwal. In support of the aforesaid contention, a duty chart has been brought on record.

During the course of investigation, such alibi of the petitioner was not accepted for the reason that the location of the telephone numbers belonging to the petitioner was found near the place of occurrence.

A communication was made to the Senior Superintendent of Police, Arwal for initiating a departmental proceeding against the petitioner because of his involvement in the subject F.I.R. The Senior Superintendent of Police, Arwal was not agreeable for the same as it was found by him that the petitioner was posted at his residence and that the C.D.R. of the telephone numbers were not conclusive because the petitioner has three telephone numbers registered in his name.

It is absolutely true that the petitioner has three telephone numbers registered in his name but out of those, two mobile telephones remain with him whereas the other remains at his village home which is used by his wife.

In this context, it has been submitted that the location of that telephone number only was found in the vicinity of the place of occurrence which is being retained by the wife of the



petitioner. He further submits that since the occurrence took place in the village in which the wife also had been residing at that time and had retained one particular telephone with her, the tower location would definitely show the presence of the holder of the telephone in the vicinity of the place of occurrence. That by itself would not be conclusive proof of the fact that the petitioner was present at the place of occurrence while the assault took place.

Apart from this, it has been submitted that the accusation by the investigator that the C.D.R. has been tampered with is not correct as there is no occasion for any mobile number holder to do so. There is some delay in lodging of the F.I.R. and as has been argued, there is no explanation, much less reasonable explanation for the same.

Lastly, it has been urged that the occurrence took place because of the informant not having retracted from his earlier statement regarding accusation against some of the accused persons by way of a criminal case.

The learned Advocate for the petitioner has submitted that no case has been registered against the petitioner in the past by the informant. Had it not been true, the petitioner would not have made a statement on oath that before the subject F.I.R. was



lodged, the petitioner has not been made accused in any case whatsoever.

Thus, it has been argued that the accusation against the petitioner is motivated and for the purposes of framing him especially because he is in the employment of Bihar Police.

Considering the afore-noted arguments, the provisional bail granted to the petitioner by order dated 24.06.2021 is hereby confirmed.

The petitioner shall remain on the same bail bonds.

The petitioner but is directed to participate in the investigation and co-operate with the investigator. In case, the charge-sheet is submitted and the case goes to trial, the petitioner shall participate in the same. Any effort to forestall the investigation or trial, as the case may be, would render the bail liable to be cancelled.

The petition stands allowed with the afore-noted observation.

(Ashutosh Kumar, J)

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