

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40349 of 2021

Arising Out of PS. Case No.-8 Year-2021 Thana- IMAMGANJ District- Gaya

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DHARMENDRA YADAV, S/o Sita Ram Yadav Resident of Village- Bhimpur
Manjhiyama, Tola- Bishun Bigha, P.S.- Konch, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Prasad Bhartee, Advocate

Mrs. Manish Prakash, Advocate

For the Opposite Party/s : Mr. Ram Sevak Choudhary, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 06-04-2022 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the

complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with

Imamganj P.S. Case No. 08 of 2021, for the offence punishable

under Sections 363(A) and 365 of the Indian Penal Code.

The prosecution case, in brief, is that one mentally

retired boy, aged about 14-15 years, was found in the Scorpio

bearing registration No. BR-02PA-4172. On inquiry, it was

found that the petitioner is the owner of the said vehicle and he

is a Doctor working in Janta Nursing Home.

Learned counsel appearing on behalf of the petitioner

submits that the it is admitted fact that petitioner was working



for Dr. Vinay Kumar, who is running Janta Nursing Home and due to certain differences with him, he has been made accused in the present case. The said Dr. Vinay Kumar has not been made accused nor his statement has been taken in course of investigation to support the allegation made in the F.I.R. The said vehicle has admittedly been recovered from the premises of the Police Station. From perusal of seizure-list, it appears that petitioner was not present at the time of seizure and prosecution has purposely not made accused to Dr. Vinay Kumar, who is the kingpin and any suspicion regarding trade of human organ the same can only be levelled against Dr. Vinay Kumar, who has given detailed of the said boy, however, he has not divulged the address or name of the parents of the boy, who has allegedly been found inside the vehicle of the petitioner, which is registered in the his wife. The petitioner is in custody since 27.01.2021 merely on the basis of suspicion. The boy, who was examined under Section 164 Cr.P.C., but he was unable to make any statement and thereafter taking into consideration his condition he has been sent to the rehabilitation centre as would appear from paragraph No. 23 of the case diary.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner.



Having perused the allegation made in the F.I.R., it appears that petitioner has admitted the fact that he was working with Dr. Vinay Kumar and in course of investigation, the statement of Dr. Vinay Kumar has not been taken in support of the complaint made in the F.I.R. There is no eye-witness, admittedly, the vehicle was seized and the seizure-list has been prepared in absence of petitioner as would appear from the seizure of the vehicle has been shown to have effected in the Police Station premises. However, from perusal of the seizure-list, which has been annexed to the present bail application, it is not clear as to whether it was effected in presence of the petitioner. In the seizure-list, there is no reference that a unsound mind boy was found inside the vehicle.

Considering the aforesaid fact, the Court below is directed to verify the seizure-list as to whether the same was effected in presence of the petitioner, if it is found that the seizure-list was not handed over and it was not effected in presence of the petitioner, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Sherghati, Gaya in connection with



Imamganj P.S. Case No. 08 of 2021, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

The boy, who has allegedly been found in the vehicle, has already been sent to the Rehabilitation Centre, Gaya, though this Court is much concerned with the boy he may be directed to be provided all medical facilities and he should be treated at any of the mental hospital in the State of Bihar or in the country.

(Purnendu Singh, J)

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