

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62919 of 2021

Arising Out of PS. Case No.-210 Year-2021 Thana- MOKAMAH District- Patna

OMKAR KUMAR @ SHIVAM KUMAR Son of Shri Hari Narayan Singh
Resident of Village - Ganga Sarai, P.S. - Barahiya, District - Lakhisarai
(Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Tiwary, Advocate.

For the Opposite Party/s : Mr. Shantanu Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 25-08-2022 Today this case has been listed on the motion slip
filed by the learned counsel for the petitioner.

Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Saket Tiwary, learned counsel for the
petitioner as well as learned Additional Public Prosecutor for the
State.

At the outset, learned counsel for the petitioner
submits that vide order dated 21.04.2022, the provisional bail
was granted to the petitioner to attend the marriage ceremony of
his sister and in compliance of the direction of this Hon'ble
Court, after attending the marriage, the petitioner himself



surrendered on 05.05.2022 and since then he is in custody.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Mokama P. S. Case No. 210 of 2021 registered for the offences punishable under Section 414 read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on a secret information regarding theft of an auto rickshaw, the police officials apprehended the petitioner, who was found driving the same.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner has no concern with the alleged stolen auto rickshaw as he works only as a driver of the said auto rickshaw and the alleged stolen rickshaw was provided by the father of the co-accused Kundan Kumar, who is owner of 2-3 auto rickshaw. It is further submitted that the petitioner was not even aware as to the auto rickshaw, in question, was stolen one in as much as no F.I.R. or any complaint with regard to the theft of that rickshaw has ever been brought on record, which shows that the auto rickshaw was a stolen property. It is next submitted that subsequent to the institution of the present case, the petitioner has also been remanded in as Mokama P. S. Case



No. 200 of 2021 registered for the offence punishable under Section 379 of the Indian Penal Code for the theft of the auto rickshaw in question. It is last submitted that the petitioner is in custody since 03.08.2021 excluding the period in which the petitioner remained on provisional bail.

On the other hand, learned APP for the State opposes the bail application.

Having considered the submissions made on behalf of the parties and taking into account the nature of allegation and the materials brought on record apart from the fact that the prior to the institution of this F.I.R., the petitioner had clean antecedent, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-II, Barh in connection with Mokama P. S. Case No. 210 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.



- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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