

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56092 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NAANPUR District- Sitamarhi

Aman Kumar @ Kanhai Malik, Son Of Late Ashok Kumar Mishra, Resident
Of Village- Janipur, Ps- Nanpur, Distt- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anurag Kumar, Advocate

For the Opposite Party/s : Mr. Akshay Lal Pandit, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 09-11-2023 Heard Mr. Anurag Kumar, learned counsel appearing
on behalf of the petitioner and the learned Additional Public
Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Nanpur P.S. Case No. 76 of 2023, registered for the offence
punishable under Sections 392 of the Indian Penal Code.

3. It is alleged that while the informant, who happens
to be an employee of the L&T Finance Service, was returning
after collecting a sum of Rs. 1,23,250/-, in the mean time two
motorcycle borne miscreants intercepted him and on the point of
pistol snatched the cash.

4. It is submitted on behalf of the petitioner that
admittedly from the FIR, it is evident that the face of the
miscreants were covered and the informant was not identified,



however, during the course of investigation on the basis of identification of motorcycle, one Nitish Kumar was apprehended and on the confessional statement of Nitish Kumar, the name of the petitioner and two other persons has sprung up. He further submits that the confessional statement of co-accused made before the police or under the judicial custody, is not at all admissible in the eyes of law and hit by Sections 25 and 26 of the Indian Evidence Act, 1872. Save and except the confessional statement, there is no materials suggesting the complicity of the petitioner. In fact, on account of his past criminal antecedent, his name has been implicated in this case, however, the petitioner is on bail in all the three cases, the particular of one has been mentioned in the supplementary affidavit. He lastly submits that irrespective of all the allegation and the confessional statement, one cannot lose sight of the fact that the primal object of bail is only to ensure the presence of the accused persons and the purpose of bail should not be punitive.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and drawing the attention of this Court to the criminal antecedent and with reference thereto submits that, the petitioner appears to be habitual offender.



6. The petitioner has also drawn the attention of the Court to the medical prescriptions and test reports suggesting of the fact that on the alleged date of occurrence, he was engrossed with the medical check up and test etc.

7. Regard being had to the submissions made on behalf of the parties and taking into consideration the criminal antecedent of the petitioner, this Court is not persuaded to enlarge the petitioner on anticipatory bail, however it is needless to observe that if the petitioner will surrender before the Court below within a period of eight weeks, the learned Court below shall consider the submissions made on behalf of the petitioner and shall pass an appropriate order without being prejudice by the order of this Court rejecting the anticipatory bail application. The prayer of the petitioner stands rejected.

(Harish Kumar, J)

supratim/-

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