

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52338 of 2023

Arising Out of PS. Case No.-658 Year-2022 Thana- ARARIA District- Araria

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SALMAN @ MOHAMMAD SALMAN Son of LATE TASIR Resident of
village - Bathnaha, Mandal Tola, Ward no. 27, P.S. - Jogbani (Bathnaha O.P),
Distt. - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 19-08-2023

Heard the parties.

The petitioner is in custody in connection with Araria
P.S. Case No. 658 of 2022 for the offence under sections 467,
468, 471, 472, 474 and 420/34 of the Indian Penal Code lodged
on 03.08.2022 by the informant, Md. Shamim Akhtar.

As per the prosecution story, the informant alleged
that he is a motorcycle mechanic having garage at Zero Mile,
Araria. One Prem Prakash Bhagat came and offered that if he
sells motorcycle from J.M. Motors, Forbesganj, he will get a
commission of Rs. 1,000/- per motorcycle. Accordingly, one
motorcycle was purchased, total payment received by Prem
Prakash Bhagat and thereafter, the motorcycle was handed over
to him.



In this way, three hundred motorcycles were sold to different persons after getting payments and photocopy of Adhar Card and thereafter, the motorcycle were delivered. However, from last two months, loan notices started coming from Hero Fin Carp Limited received by all the purchasers and thereafter, the financier started seizing the motorcycle from the road. The allegation is that as the purchasers never visited the office of finance company or showroom nor signed any document, they felt duped. Accordingly, the FIR.

Learned counsel for the petitioner submits that admittedly, the name of Prem Prakash Bhagat is on the record who offered commission to the informant and got the motorcycles delivered, took payment. It is his further submission that the entire conspiracy cannot be executed without the connivance of the showroom Owner/Manager. He is simply an employee on a pay roll, nothing to do with finance section, has already suffered by being in custody since 08.05.2023 (as stated in paragraph 16 of the petition) and do not have criminal antecedent.

Learned APP opposes the prayer for bail stating that innocent people have been duped of lacs and lacs of rupees by providing the motorcycles, taking payment which was



hypothecated with the Hero Fin Carp Limited and which they are now seizing.

Considering the allegations in the FIR which has come against Prem Prakash Bhagat and as per the order sheet of the learned Sessions Judge, the owner took route of anticipatory bail which was allowed, the petitioner is an employee, has remained in custody since 08.05.2023 and do not have criminal antecedent, FIR lodged, chargesheet submitted and ultimately will have to face the trial, this Court is inclined to extend him the privilege of bail with conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria, in connection with Araria P.S. Case No. 658 of 2022 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;



(iii) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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