

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52515 of 2023

Arising Out of PS. Case No.-85 Year-2023 Thana- SAMASTIPUR District- Samastipur

Md. Masoom @ Md. Sahil @ Md. Masum, S/O Md. Jakir @ Md. Jakir
Hussain R/O Village- Chakanur, P.S.- Muffasil, Distt.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr. Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 23-08-2023 Heard Mr. Bijay Bhushan Prasad, 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 Samastipur (Town) P.S. Case No. 85 of 2023, registered for
the offences punishable under Sections 399 and 402 of the
Indian Penal Code and Sections 25(1-b)a, 26 and 35 of the Arms
Act.

3. Allegedly, in course of patrolling duty, the police on
a secret information with regard to the assemblage of miscreants
raided the place of occurrence. However, on noticing the police
party, 7-8 persons started fleeing away, out of which three
persons were apprehended and the rest succeeded to flee away.
The apprehended persons disclosed the name of the petitioner as



one of his accomplice. During search, a huge cash amount and arms and ammunitions were recovered.

4. Learned counsel appearing on behalf of the petitioner submits that the name of the petitioner has sprung up in the disclosure/confessional statement of co-accused persons, which is admittedly made before the police and, as such, the same is hit by Section 25 of the Indian Evidence Act and not admissible. He next submits that no incriminating material has been recovered from the whereabouts of the petitioner, suggesting his complicity in the present crime. Barring the confessional statement, there is no material. He lastly submits that the petitioner has also been made accused in an identical case on the confessional statement of co-accused and, save and except these two cases, the petitioner has no criminal antecedent.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application.

6. Submissions has been made on behalf of the parties and considering the materials available on record, suggesting that three persons were apprehended, from whose possession various incriminating materials and huge cash amount have been recovered and they have disclosed the name of the



petitioner as one of the accomplice, this Court is not persuaded to allow the petitioner on the privilege of anticipatory bail.

7. Thus, the prayer of the petitioner stands rejected.

8. It is needless to observe that if the petitioner would surrender before the Court below and prays for regular bail, the same shall be considered taking into account the materials available on record, without being prejudiced by the order of this Court.

(Harish Kumar, J)

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