

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70629 of 2023

Arising Out of PS. Case No.-239 Year-2023 Thana- KAKO District- Jehanabad

1. Rahul Kuamr, Son of Rajkumar Mochi, R/o vill - Chandraura, P.S. - Kako, Distt. - Jehanabad
2. Vikash Kumar, Son of Shiv Kumar Das, R/o vill - Chandraura, P.S. - Kako, Distt. - Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Mohammed Arif, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 09-11-2023 Heard Mr. Yogendra Kumar Singh, learned counsel appearing on behalf of the petitioner and Mr. Mohammed Arif, learned Additional Public Prosecutor for the State.

2. At the outset learned counsel for the petitioner submits that during the pendency of the present application the petitioner no. 1 has taken into custody and as such he is not pressing his application. In view thereof the present application with respect to the petitioner no. 1 has become infructuous.

3. The petitioner no. 2 apprehends his arrest in connection with Kako P.S. Case No. 239 of 2023, registered for the offences punishable under Sections 379, 414, 467, 468, 471 and 34 of the Indian Penal Code.



4. It is alleged that the police apprehended two persons with stolen motorcycles and on the disclosure made by them the house of the petitioner was raided, from where a stolen motorcycle was recorded.

5. It is submitted on behalf of the petitioner that no recovery has been made from the house of the petitioner as from the perusal of the seizure list, it appears that all the witnesses are none else but the police personnel. He submits that had the search and seizure been made in the house of the petitioner, there would have been certainly the name of any of the family members as one of the witness or atleast the copy of the seizure list would have been given to any family member but, there is no such material which suggest the fact that such recovery has been made from the house of the petitioner, that apart, the petitioner is man of fair antecedent and he undertakes before the Court that he will fully cooperate in the investigation or in the proceeding of the Court.

6. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that the stolen motorcycle has been recovered from the house of the petitioner and his complicity cannot be denied.

7. Regard being had to the submissions made on



behalf of the parties and considering the infirmities in the search and seizure coupled with the fair antecedent of the petitioner no. 2 and the fact that there is no FIR/complaint with regard to the theft of the motorcycle that is alleged to have been recovered from the house of the petitioner no. 2, let the petitioner no. 2 (Vikash Kumar) above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate in connection with Kako P.S. Case No. 239 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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