

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75179 of 2023

Arising Out of PS. Case No.-184 Year-2019 Thana- NAUTAN District- West Champaran

NANAK MAHTO @ SRI MAHTO, Gender, Male, aged about 29 years,
SON OF CHANDRIKA MAHTO RESIDENT OF VILLAGE -
PURVIKARGAHIYA, WARD NO.12, BETTIAH, POLICE STATION -
BETTIAH TOWN, DISTRICT - WEST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarvesh Kashyap, Advocate
Mr. Anant Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 29-11-2023 Heard Mr. Sarvesh Kashyap along side Mr. Anant Kumar Mishra, learned counsels appearing on behalf of the petitioner and Mr. Bishweshwar Ram, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Nautan P.S. Case No. 184 of 2019 dated 15.05.2019 registered for the offence(s) punishable under Sections 364(A) of the Indian Penal Code.

3. Allegation is of kidnapping the brother of the informant. FIR is against unknown accused persons.

4. Mr. Sarvesh Kashyap along side Mr. Anant Kumar Mishra, learned counsels appearing on behalf of the petitioner submitted that petitioner is innocent and has been falsely



implicated in this case. The victim, namely, Sukat Ram, in course of his deposition in Sessions Trial No.10 / 2020, has not named the petitioner that he was also involved in his kidnapping. Learned counsel referring to Annexure P/3, the deposition of witness No.3, the victim / Sukat Ram, has stated that the victim in his statement recorded under Section 164 of Cr.P.C. has made allegation against other accused persons and in paragraph no.5 he has made specific allegation that he can identify Raju Mahto and Hundred Mukhiya. Learned counsel further submitted that the petitioner's name has surfaced in course of investigation on the basis of confessional statement of said accused Raju Mahto, who has been acquitted by the court below in Sessions Trial No.10/2020. He further submitted that petitioner has clean antecedent and on these grounds, petitioner deserves to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail and submitted that the petitioner has not participated in the trial in spite of the fact that he has been made accused in the said case. The FIR was lodged on 15.05.2019 and in the present bail application, the petitioner has not been able to give reason as to why he has been absconding. He further submitted that from the perusal of



pleadings made in the bail application, it appears that no statement has been made with regard to the fact that no process has been issued against him under Sections 82 and 83 of Cr.P.C. and in absence of said statement, the petitioner does not deserve to be released on bail.

6. Having considered the rival submissions made on behalf of the parties, as well as, having perused the deposition of the victim which was recorded on 26.03.2021, in which the victim has not identified the petitioner, which shows that the petitioner in spite of the fact that he is named in the FIR has not co-operated with the investigating officer nor any action was taken by the police officer to arrest him.

7. The District Court is directed to peruse the records as well as the material which has been brought on record in course of investigation, as well as, the fact that the petitioner has been implicated in the present case on the basis of confessional statement of co-accused Raju Mahto, and said Raju Mahto has been acquitted by the trial Court in Sessions Trial No.10/2020. The District Court in such circumstances, may form the opinion as to whether the petitioner deserves to be released on anticipatory bail for want of any evidence on such terms and conditions as the court below deems fit and proper.



8. With the aforesaid observation/direction, the application stands disposed of.

(Purnendu Singh, J)

Sanjay/-

U		T	
---	--	---	--

