

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8973 of 2024

Arising Out of PS. Case No.-45 Year-2021 Thana- BARURAJ District- Muzaffarpur

Mithu Kumar @ Mithu Bhagat S/O- Naval Bhagat R/O- Village- Dhanaiya,
P.S.- Sahebganj, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shanti Bhushan Singh, Advocate
For the Opposite Party/s : Ms. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 21-06-2024 Heard Mr. Shanti Bhushan Singh, 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 Baruraj P.S. Case No. 45 of 2021, registered for the
offences punishable under Sections 399 and 402 of the Indian
Penal Code and Section 25(1-B)a, 26 and 35 of the Arms Act.

3. During the course of raid, the police apprehended
some miscreants from whose possession incriminating
materials, including pistols, live cartridges and other items were
recovered. It is further alleged that some of the persons,
including the petitioner, succeeded in fleeing away, whose
names have been disclosed by the apprehended person.

4. Learned counsel appearing on behalf of the
petitioner contended that save and except the disclosure made



by the apprehended accused persons, there is no material suggesting the complicity of the petitioner in the present crime. Referring to the Section 26 of the Indian Evidence Act, learned counsel for the petitioner further contended that, be that as it may, the statement of the apprehended person before the police is not admissible, even against such person under the eyes of law. There is no independent witnesses, who had seen the petitioner at the place of occurrence. Further contention has been made that co-accused Akash Kumar, whose name has also been disclosed by the apprehended person has been allowed the privilege of anticipatory bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 11634 of 2023 vide order dated 01.05.2023.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that the petitioner bears one criminal antecedent, as mentioned in paragraph no. 3. That apart, his name has been disclosed by all the apprehended person, from whose possession various incriminating materials have been recovered.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the case of the petitioner is based on parity, coupled with the fact that save and



except the disclosure/confessional statement, there is no material suggesting the complicity of the petitioner, let the petitioner 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.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Muzaffarpur in connection with Baruraj P.S. Case No. 45 of 2021, 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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