

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9836 of 2024

Arising Out of PS. Case No.-367 Year-2023 Thana- SIRDALA District- Nawada

Kundan Kumar @Kundan @ Kunchan Kumar SON OF Shankar Prasad @
Satyendra Kumar Resident Of Village- Naudiha, Ps- Fatehpur, Distt- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shankar Kumar, Adv. Mr. A.K. Thakur, Adv.
For the Opposite Party/s	:	Mr. Ahmad Ali, APP
For the Informant	:	Mr. Birendra Kumar, Adv. Mr. Kunal Kishore, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 16-04-2024 Heard learned counsel for the petitioner, learned A.P.P.
for the State and learned counsel for the informant.

2. The petitioner seeks regular bail in connection with
Sirdalla (Meskaur) P.S. Case No. 367 of 2023, lodged on
21.09.2023 under Sections 364, 34 of the Indian Penal Code.

3. As per the prosecution case, the FIR has been
lodged against 2 named accused persons including the present
petitioner against whom there is an allegation that they have
kidnapped the informant's son.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence. Counsel
also submits that initially the FIR has been lodged under section



364, 34 of the Indian Penal Code, but subsequently, sections 302, 201 of the Indian Penal Code has been added due to the reason that the dead body of the kidnapped informant's son has been recovered. Counsel further submits that *vide* order no.2 dated 22.02.2024, case diary has been called for and in the case diary, the only material which is against the petitioner is his confessional statement and recovery of his alleged *chappal*, towel and a purse which has not been proved by anyone. Counsel submits that as per under section 27 of the Indian Evidence Act, 1872, those recovered materials cannot be acknowledge as an evidence.

5. Learned counsel for the petitioner submits that the criminal antecedent of the petitioner is clean and he is in custody since 30.09.2023. Counsel further submits that the charge-sheet has already been submitted in this case.

6. Upon the specific query of the Court from the counsel for petitioner that whether charge has been framed in this case or not, counsel submits that he is not sure whether charge has been framed or not.

7. Learned APP for the State opposes the prayer for bail of the petitioner and submits that applicability of section 27 of the Indian Evidence Act, 1872 may not be taken into



consideration at the stage of bail.

8. Learned counsel for the informant vehemently opposes the prayer for bail of the petitioner and submits that the petitioner himself in his confessional statement disclosed about the modus operandi of the crime and on his statement, police has recovered the *chappal*, towel and purse of the petitioner in which six photographs of the petitioner was also there. Counsel further submits that the recovery of the said purse is a strong circumstance of the petitioner involved in the commission of crime in addition to his confessional statement.

9. In the present facts and circumstances, this Court is not inclined to grant regular bail to the petitioner.

10. Accordingly, the prayer for regular bail of the petitioner in connection with Sirdalla (Meskaur) P.S. Case No. 367 of 2023, pending before the learned Judicial Magistrate 1st Class, Nawada is **hereby rejected**.

(Dr. Anshuman, J.)

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