

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32559 of 2024

Arising Out of PS. Case No.-254 Year-2023 Thana- KUSHESHWARASTHAN District-
Darbhanga

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Rahul Kumar @ Rahul Mukhiya @ Rahul Sahani @ Rahhl Kumar Son of
Manoj Sahni @ Manoj Sahani Resident of Mahisaut, P.S.- Tileshwar O.P.
(Kusheshwar Asthan), Dist.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Jha, Adv.

For the Opposite Party/s : Mr.Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 20-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with
Kusheshwar Asthan P.S. Case No. 254 of 2023 dated
21.07.2023, instituted for the offence punishable under Sections
379 and 411/34 of the Indian Penal Code.

3. The prosecution case, in short, is that the informant
got a tip off that the villager caught a thief on the charge of
mobile theft and when he reached at the Soharwa Dakbangla at
12.30 PM, he found that a boy was being caught by the villagers
and was being beating up. On query, the apprehended boy told
his name as Akshay Mukhiya and during search, a blue colour
Samsung mobile was recovered from the lower pocket of the



pant of the apprehended boy and when the informant demanded document of the said mobile, he has failed to produce paper of the said mobile. On being interrogated, the said miscreant told that he along with Rahul Sahni (petitioner) had stolen the said mobile from village Buchauli and they have also committed theft of mobiles from village Jhiloriya, Buchauli and Jafarpur. It is further alleged that on the statement of accused Akshay Mukhiya, a search was made in the house of the said miscreant and two mobiles have been recovered from his house and seizure list has been prepared accordingly.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is submitted that police arrested one person, namely, Akshay Mukhiya and recorded his confessional statement in which the involvement of the petitioner in a theft case has surfaced. It is further submitted that after the disclosure made by the apprehended persons, namely, Akshay Mukhiya the police raided the house of the petitioner, where two mobile phones were seized, which belong to the uncle and sister-in-law of the petitioner. It is submitted that the Kusheshwar Asthan police station never approached the house of the petitioner nor recovered any kinds of mobiles. It is submitted that on the



alleged date of occurrence, the grandfather of the petitioner, namely, chilittar Mukhiya called by the local *chaukidar* and when the grandfather of the petitioner reached at the police station, the concern police officer asked him to call his grand son, namely Rahul Mukhiya (petitioner) otherwise ready to face the consequence. After lapse of two days, the Police officer of the Kusheshwar Asthan PS took his signature on a plain paper and the same has been used for preparation of seizure list. It is further submitted that on the date of alleged occurrence the petitioner along with his entire family members were living at Cuttak, Odisha, where the petitioner is student of graduation and preparing for competitive examination. It is next submitted that nobody lodged any complaint for the said seized mobile which is alleged to be a stolen mobile. Lastly, it has been submitted that the petitioner has no criminal antecedents.

5. Learned A.P.P. has opposed the prayer for bail of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of six weeks from today, in connection with Kusheshwar Asthan P.S. Case No. 254 of 2023 corresponding to GR Case No. 659 of



2023 he shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Court of SDJM, Birual, Dist. Darbhanga, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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