

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47923 of 2024

Arising Out of PS. Case No.-17 Year-2022 Thana- HATHUA District- Gopalganj

Aman Kumar, Son of Pratap Singh, R/o- Village- Manichhapar, P.S.- Hathwa,
Distt.- Gopalganj

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Brajesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-08-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner in this case is seeking regular bail in connection with Hathwa P.S. Case No. 17 of 2022 registered for the offences punishable under Sections 457 and 380 of the Indian Penal Code. He has got three criminal antecedents. He is in custody since 30.01.2024.

3. As per the prosecution story, the informant alleged that on 29.01.2022 at 06:00 pm, some unknown thieves committed theft in his house and took away gold ornaments worth Rs.8 lakhs, 750 gms silver worth Rs.4 lakhs and cash Rs.80,000/-.

4. Learned counsel for the petitioner has placed before this Court a copy of the order dated 10.01.2024 passed in Criminal Miscellaneous No. 77723 of 2023 wherein having

noticed the allegations against the petitioner and the fact that co-accused Rohit Kumar has already been granted privilege of anticipatory bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 42517 of 2023, granted privilege of pre-arrest bail to the petitioner, subject to the conditions under Section 438(2) Cr.P.C. and further condition that the court below shall verify the criminal antecedents of the petitioner and, in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

5. On perusal of the order dated 10.01.2024 passed by this Court in Cr. Misc. No. 77723 of 2023, it would be evident that in paragraph '2' of the said order, this Court has recorded the submissions on behalf of the petitioner wherein it was brought to the notice of this Court that on the date of registration of the present case, the petitioner had no case on his head but later on, one Golu Kumar who was arrested in Hatwa P.S. Case No. 333 of 2021 stated in his confession that the petitioner had been involved in three cases described in paragraph '3' of the petition but the petitioner was not named in those cases.

6. Despite the aforesaid order granting privilege of pre-arrest bail to the petitioner, when he surrendered in the court

below on 30.01.2024, he was not released on bail after holding that all the three cases which were there against the petitioner were registered prior to the present case. This difference in the date of registration of those three cases and that of the present case has been taken as a concealment of criminal antecedents.

7. This Court is of the prima-facie opinion that the order refusing to release the petitioner on bail by the learned court below has resulted in miscarriage of justice. He has already remained in custody for about seven months and has been deprived of the liberty of pre-arrest bail granted by this Court.

8. This seems to be a very serious matter and if the things as it appears to this Court remain the same, it may require action in administrative side.

9. At this stage, this Court directs that the petitioner, namely, Aman Kumar be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-X, Gopalganj in connection with Hathwa P.S. Case No. 17 of 2022, subject to the condition as laid down under Section 437 (3) Cr.P.C.

10. And further condition that the court below shall verify the criminal antecedents of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bonds of both the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

11. This Court would, however, not dispose of this case. The learned District Judge, Gopalganj shall submit a report after perusal of the entire records within two weeks from today.

12. The order be communicated to the District Judge, Gopalganj immediately.

13. List this case with the report on 06.09.2024 under heading ‘To Be Mentioned’.

(Rajeev Ranjan Prasad, J)

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