

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83828 of 2023

Arising Out of PS. Case No.-122 Year-2023 Thana- HABIBPUR District- Bhagalpur

Md. Gulab Son of Md. Raju @ Rajjo @ Raju R/o Habibpur, Momin Tola, P.S.
- Habibpur, Distt. - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar, Advocate

For the Opposite Party/s : Mr.Parmanand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 19-03-2024 Heard learned counsel appearing on behalf of the
petitioner and the learned APP for the State.

2. Petitioner seeks pre-arrest bail in connection with
Habibpur P.S.Case No.122 of 2023, registered for the offences
punishable under Section 380 of the Indian Penal Code .

3. As per the allegation made in the FIR, the petitioner
along with the other accused persons committed theft in the
night in the go-down by stealing the bundle of ‘Tin’ scraps.
Specific allegation against the petitioner is that one Md. Aslam
was caught by the informant and following the prescribed
procedure of Section 43 of Cr.P.C., he was produced before the
Police and before the Police, who had disclosed the name of the
petitioner alleging his involvement in commission of the crime.

4. Mr. Praveen Kumar, learned counsel appearing on



behalf of the petitioner submitted that the Police Officer has not shown his satisfaction giving *prima facie* reason to believe that the co-accused Md. Aslam, who had disclosed the name of the petitioner, in absence of any material, the discloser made regarding the petitioner in the FIR can not be sustained, which has been made in the police custody. Such confessional statement has no legal sanctity. On these grounds, learned counsel for the petitioner submits that the petitioner deserves to be released on pre-arrest bail. Petitioner has clean antecedent.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail to the petitioner.

6. Having considered the rival submissions made on behalf of the parties, as well as, the nature of allegation made in the FIR and the co-accused, Md. Aslam has disclosed the name of the petitioner in police custody but such confessional statement given in the police custody has no legal sanctity in view of Section 25 of the Indian Evidence Act, the petitioner is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the learned court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Shivam Kumar, Judicial



Magistrate Ist Class, Bhagalpur/concerned court, in connection with Habibpur P.S.Case No.122 of 2023, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

7. The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in paragraph No.3 of the bail application, this order will automatically lose its force.

(Purnendu Singh, J)

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