IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62433 of 2026

CNR No. BRHC010905592026

Arising Out of PS. Case No.-653 Year-2022 Thana- SIWAN MUFFASIL District- Siwan

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Azad Ali Son of Noor Mohammad @ Hero @ Noor Mohammad Mansoori Resident of Village - Bindusar, Purab Tola, P.S.- Mahadeva (O.P.), District - Siwan, Bihar

... ... Petitioner/s

Versus

The State of Bihar.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Prashant Kumar, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 29-10-2026 Heard learned Advocate for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Siwan (M) Mahadeva (O.P.) P.S. Case No.653 of 2022 registered for the offences punishable under Section 379 of the Indian Penal Code.

3. It is alleged that, on the night of the alleged occurrence, the informant parked his Hero Glamour motorcycle bearing registration No. BR29-AE-3061 near Adarsh Sewa Clinic and went inside. Upon returning after some time, he found the motorcycle missing. It is further alleged that the said motorcycle had been stolen by unknown miscreants.

4. Learned Advocate for the petitioner submitted that a bare perusal of the F.I.R. would reveal that the same was

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instituted against unknown thieves. It is further submitted that, during the course of investigation, acting upon information furnished by a police informer, the motorcycle in question was recovered from the petitioner's house, whereafter an extra-judicial confession of co-accused Sani Manjhi @ Sonu Manjhi was recorded. It is in the aforesaid circumstances that the name of the petitioner surfaced in the case. However, learned Advocate for the petitioner contended that the petitioner has been incorrectly identified as **Azad Ansari @ Shahzad Ansari**, whereas Azad Ali and Shahzad Ali are two distinct individuals who happen to be brothers. In support of the aforesaid contention, the Aadhaar cards of both individuals have been brought on record. It is further contended that the petitioner's brother, namely, Shahzad Ansari, has certain criminal antecedents, whereas the petitioner himself resides outside the State of Bihar and earns his livelihood by doing menial jobs. Mr. Prashant Kumar, learned Advocate for the petitioner, further submitted that the alleged offence is punishable with imprisonment for a term extending up to three years and, notwithstanding the same, no notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) has been served upon the petitioner.

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5. Referring to the decision rendered by the Hon'ble Supreme Court in ***Satender Kumar Antil vs. Central Bureau of Investigation and Anr.*****, reported in 2026 LiveLaw (SC) 114**, learned Advocate submitted that, while adjudicating the seminal issue as to whether the issuance of notice under Section 35(3) of the BNSS is mandatory in cases involving offences punishable with imprisonment for a term extending up to seven years, the Hon'ble Supreme Court categorically held that the issuance of such notice to an accused or any person concerned in connection with an offence punishable with imprisonment for a term extending up to seven years is the rule.

6. On the other hand, learned Advocate for the State, while opposing the prayer for bail, submitted that, in view of the submissions advanced on behalf of the petitioner, the matter warrants further scrutiny at the level of the Superintendent of Police.

7. Having considered the fair submissions advanced by learned Advocates for the respective parties and taking note of the averments made in the bail application as well as supplementary affidavit, this Court finds substance in the application. Accordingly let the above named petitioner, be released on bail, in the event of his arrest or surrender before the

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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 learned C.J.M., Siwan in connection with Siwan (M) Mahadeva (O.P.) P.S. Case No.653 of 2022, subject to the condition as laid down under Section 482(2) of the BNSS, with further condition that one of the bailors shall be the own/close family members of the petitioner.

8. The extension of the petitioner's bail, however, shall not preclude the prosecution from conducting further investigation into the matter in light of the submissions advanced hereinabove, particularly with regard to the contention that **Azad Ali and Shahzad Ali** are two distinct individuals who happen to be brothers and that the alias attributed to the petitioner by the police is factually incorrect.

9. With the aforesaid direction, the present application stands allowed.

(Harish Kumar, J)

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