

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.783 of 2016

Arising Out of PS.Case No. -193 Year- 2014 Thana -MOKAMAH District- PATNA

Priyesh Kumar @ Badka @ Priyesh Kumar Balko Son of Divakar Singh
Resident of Village- Nagar Gama , P.s Balia, District Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh

For the Opposite Party/s : Mr. Nityanand(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 17-03-2016

The prayer for bail of the petitioner was earlier rejected vide Cr. Misc. No. 19702 of 2015 by a co-ordinate Bench of this Court but the Bench is not available due to medical exigency and in view of the administrative order of Hon'ble the Acting Chief Justice dated 10.03.2016 this matter has been placed before this Court.

The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Section 395 of the Indian Penal Code. The petitioner is languishing in custody

since 01.12.2014.

A Bolero Pick-up van while carrying 33 pieces of batteries and 120 pieces of inverters, was robbed along with the mobile phones of the driver and the cleaner. During the course of investigation the petitioner was apprehended when he confessed that he used the robbed mobile for sometime.

It is submitted by learned counsel for the petitioner that earlier bail application of the petitioner was rejected on the ground that mobile bearing No. IMEI-911371756079050 was recovered from the possession of the petitioner and the alleged sim was registered in the name of the petitioner rather it was registered in the name of one Gorelal Yadav, statement to that effect has been made in paragraph 4 of the supplementary affidavit, which reads as follows:-

“That earlier bail application of the petitioner on 02.07.2015 was rejected on the ground that looted mobile bearing No. IMEI-911371756079050 with sim No. 822988149 was recovered from the possession of petitioner but it is an error which was never recovered from his possession and the same has been clarified earlier.”

It is further submitted by learned counsel for the petitioner that no robbed article was recovered from the possession of the petitioner. Though, the confession of the

petitioner was obtained by police under pressure to the effect that the petitioner used the robbed mobile for sometime and the petitioner is accused in one other case apart from present one. The petitioner has still not been put on T.I. Parade, statement to that effect has been made in paragraph 12 of the petition, which reads as follows:-

“That the petitioner is a young boy aged 20 yrs. Mentioned in the confession statement but his date of birth is 1-1-98 and his future career is being spoiled. Petitioner has been arrested by the Police after two months of alleged occurrence without any material since 1-12-2014. The alleged occurrence took place in the dead of night and there was no means of identification as well and the petitioner has not even put on T.I. Parade.”

The impugned order also does not suggest that the recovery has been made from the possession of the petitioner and investigation has already concluded.

Considering the aforesaid facts, let the above named petitioner, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Barh, Patna in connection with Mokama P.S. Case No. 193 of 2014.

The learned court below will be at liberty to

cancel the bail bonds of the petitioner in two eventualities i.e. if he defaults for two consecutive occasions or substantially gets involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

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