

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.26273 of 2020**

Arising Out of PS. Case No.-182 Year-2019 Thana- ISHAKCHAK District- Bhagalpur

Md. Luckky S/o Late Md. Muslim Mistry Resident of Mohalla-Bhikhanpur,
Tank Lane, Police Station-Ishakchak, District-Bhagalpur. Petitioner
Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Syed Masleh Uddin Ashraf, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 10-12-2020 Heard learned counsel for the petitioner and Mr. Uday Chand Prasad, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Ishakchak P.S. Case No. 182 of 2019 registered for the offences punishable under Section 392 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution Story the Informant filed a written report before the SHO, Ishakchak Police Station, alleging that at about 09:45 A.M. three miscreants who were identified by the local people, in course of committing robbery intercepted his motorcycle at gun point and fled away after snatching his bag containing register, HHO machine and official papers.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. Learned counsel submits that no specific overt act has been alleged against the petitioner, no incriminating article has been recovered from his possession and till date the petitioner has not been put on Test



Identification Parade. It is further submitted that similarly situated co-accused Md. Rinku has already been granted bail by a learned Co-ordinate Bench of this Court in Cri. Mis. No. 22638 of 2020 and the petitioner has remained in jail in connection with case since 21.12.2019.

Mr. Uday Chand Prasad, learned APP for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case, wherein it is the submission of learned counsel for the petitioner that no specific overt act has been alleged against him, he has not been put on Test Identification Parade and there is no recovery of any incriminating article from possession of the petitioner, moreover the co-accused similarly situated has already been granted bail by a learned Co-ordinate Bench of this Court in Cri. Misc. No. 22638 of 2020 vide order dated 02.09.2020 after remaining in judicial custody for about 7 months only whereas this petitioner has remained in jail for almost one year, the trial is not likely to be concluded in near future and there is no submission on behalf of the State that his release at this stage is likely to result in tampering with evidence or interfering with the course of trial, let the petitioner above-named 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 Chief Judicial Magistrate, Bhagalpur in connection with Ishakchak P.S. Case No. 182 of 2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:



(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

And further condition that the court below shall verify the criminal antecedent 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.

The application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

