

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22276 of 2020

Arising Out of PS. Case No.-266 Year-2018 Thana- CIVIL LINE District- Gaya

RAHUL KUMAR @ TIKRA Son of Prahlad Prasad Gupta Resident of
Village - Dholakia Gali, P.S.- Kotwali, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh
For the Opposite Party/s : Mr.Uday Chandra Prasad

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 05-11-2020 Heard Mr. Manish Kumar No. 2, learned counsel for
the petitioner and learned Additional Public Prosecutor for the
State of Bihar.

This application for regular bail arises out of Civil
Lines P.S. Case No. 266 of 2018, disclosing the offence
punishable under Sections 394, 411 of the Indian Penal Code.

Fardbeyan of the informant is the basis for
registration of the FIR, according to which when he was
travelling in his *scooty* on 23.07.2018, in the broad day light at
2.00 p.m., he was waylaid by three unknown miscreants, one of
them pointed pistol towards him and asked him to spare the
scooty. Subsequently, he fired upon him because of which the
informant sustained fire-arm injuries. Another miscreant is also



said to have opened fire but the same did not hit. The miscreants took away the *scooty*. The petitioner's name surfaced during course of investigation, as can be seen from the case diary, which is available on record.

It transpires from the case diary that one Md. Sonu Quraishi was arrested by the police, who made his confessional statement and gave a vivid description of the manner of the occurrence and his involvement in commission of the offence. On the basis of his confessional statement the *scooty* was recovered by the police. It further appears from the case diary that said Sonu Quraishi was member of a gang of criminals involved in commission of serious offences of similar nature. He disclosed the name of co-accused Md. Shamshad @ Gajni who had played lead role in commission of the crime. It further transpires that on the basis of a lead made available to said Md. Shamshad, a plan was chalked out to rob someone who was carrying considerable amount of cash. He also disclosed that when Md. Shamshad was fleeing away with the *scooty* with co-accused Sheru @ Shamsher, Md. Shamshad received a call on his mobile phone from which it transpired that they had looted someone else's *scooty* whereas, as per the information furnished, the person who was supposed to be travelling in the



scooty with cash was someone else. It further transpires from the case diary that the petitioner and co-accused Shamshad were apprehended by the police in connection with Kotwali (Gaya) P.S. Case No. 309 of 2018. Confessional statement of both the accused persons were recorded by the police in the said case in which they admitted their involvement in the occurrence in question. It appears from the confessional statement of the petitioner that he had supplied the name of a businessman to the miscreants, who was carrying huge amount of cash. It is a different matter that out of some confusion the miscreants looted the *scooty* of another person, after causing fire-arm injury.

Mr. Manish Kumar, learned counsel for the petitioner has submitted that as per the allegation there are three persons who had committed the offence whereas names of four persons has surfaced during course of investigation, which falsifies the entire case of the prosecution. He has further submitted that co-accused Sonu Quraishi has been granted regular bail by this Court by an order dated 13.03.2019, passed in Cr. Misc. No. 15513 of 2019. He has also argued that co-accused Dipak Kumar, who had filed joint application for grant of regular bail with the petitioner before the court of learned Additional Sessions Judge-I, Gaya, has also been allowed bail by an order



of this Court dated 12.10.2020. He has argued that petitioner has so far not been put on T.I. Parade and since charge-sheet has already been submitted, no tangible purpose will be served if the petitioner is allowed to remain in custody any more.

It is evident from the statement made in paragraph-3 of the application that the petitioner is an accused of an offence punishable under Section 394 of the IPC in Kotwali P.S. Case No. 259 of 2014 and Kotwali P.S. Case No. 309 of 2018 for the offence punishable under Section 427, 337 of the Indian Penal Code and Section 3/4 of the Explosive Substance Act. Confessional statement of co-accused Sonu Quraishi has led to recovery of looted motorcycle. It does not appear from the order passed by this Court in the case of Sonu Quraishi that this Court had the benefit of perusing the case diary.

On careful perusal of the case diary, this Court is of the opinion that the petitioner does not deserve regular bail for the present, not only because of his criminal antecedent but because the materials collected during course of investigation corroborate the case of the prosecution relating to petitioner's active participation in commission of the crime, during broad day light.

This application is accordingly rejected.



It is expected that the court below shall take steps for expediting the trial. It is observed that in case there is no visible progress at the trial, the petitioner shall be at liberty to renew his prayer for bail after six months.

It is directed that defects in the application pointed out by the Registry must be removed within two months from today.

(Chakradhari Sharan Singh, J)

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