

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11680 of 2021

Arising Out of PS. Case No.-143 Year-2020 Thana- PIPRA District- Supaul

NIKESH KUMAR @ NIVKU @ NIKKU @ NIKESH KUMAR NIKKU Son
of Chandar Yadav Resident of Village - Kalotha, P.S. - Gwalpara, District -
Madhepura.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amarnath Jha

For the Opposite Party/s : Mr. Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 14-09-2021 Heard learned counsel for the petitioner and learned A.P.P. for
the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the
defects within four weeks of resumption of normal court proceeding.
In the eventuality of non-removal of defects within undertaken
period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with Pipra P.S. Case
No. 143 of 2020 registered for the offence punishable under Section
392 of the Indian Penal Code.

As per the prosecution case, allegation against the petitioner is
that petitioner along with two other co-accused persons on the gun-
point looted cash of Rs. 106500/-, two mobile phones, ATM Cards
from the informant. It is also alleged that they took away key of his
motorcycle.



Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case and has not committed any offence as alleged in the FIR. He submits that there is nothing in record indicating the complicity of the petitioner in the occurrence barring the confessional statement of the co-accused *Subhash Kumar* which has no evidentiary value in the eye of law. He submits that on mere suspicion petitioner was made accused in the present case. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. The petitioner has two criminal antecedents as has been mentioned in para 3 of this bail application and he is languishing in custody since 14.06.2020..

Learned APP for the State vehemently opposing the bail petition submits that from perusal of para 57 of the case diary, it clearly states that the said looted articles including mobile phones were recovered from the possession of the petitioner.

Considering the facts aforesaid and the case records including the case diary and custody of the petitioner, the above named petitioner is directed to be enlarged on bail, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor Court in connection with Pipra P.S. Case No. 143 of 2020, subject to the following conditions:

(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is



relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in the case of failure, the State shall be at liberty to move for cancellation of bail.

(5) It is directed that after release the petitioner will have to appear before the Police Station of his local area in the first week of the each month till the disposal of the present case.

(Anjani Kumar Sharan, J)

GAURAV S./-

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