

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16167 of 2021**

Arising Out of PS. Case No.-128 Year-2019 Thana- RAJPUR District- Buxar

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BHIM PANDEY, Son of Rajendra Pandey Resident of Village- Sagraon, P.S.-
Rajpur, District- Buxar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Yogesh Chandra Verma, Sr. Advocate
Ms. Rashmi Bharti, Advocate

For the Opposite Party/s : Mr.Shailendra Kumar Singh, APP

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

4 15-09-2021 Heard Mr. Yogesh Chandra Verma, learned Senior

Counsel for the petitioner assisted by Ms. Rashmi Bharti,

learned Advocate and Mr. Shailendra Kumar Singh, learned

A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Rajpur P.S. Case No. 128 of 2019 registered
for the offence under Sections 302/34 of the Indian Penal Code
and 27 of the Arms Act. He is in custody since 26.09.2020
having no criminal antecedent.

As per the prosecution story, when the brother and son
of the informant were returning after doing their work from
PNB Bank and reached near the Primary School, Devidehra and
proceeded towards their village Gendhra, from the opposite
direction one Apache and one Pulsar motorcycle on which 4-5

persons were there fired upon the head of the son of the informant and on the right side of the waist. They also fired upon the brother of the informant on his chest and head and thereafter, the motorcycle borne miscreants fled away towards the village Devidehra.

Learned Senior Counsel for the petitioner submits that it has come in course of investigation that whatever money were withdrawn by the brother of the informant from the Bank were found in the bag from the place of occurrence, therefore there was no intention to commit loot/dacoity and therefore, Section 396 I.P.C. would not be attracted.

It is his further submission that the petitioner is not named in the First Information Report, his name has transpired in the confessional statement of the co-accused Ankesh Kumar who has already been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 24531/2020. The another co-accused Ajay Kumar @ Gorakh Kumar Singh, from whose possession the Apache Motorcycle has been recovered, has also been granted bail. It is, thus, his submission that save and except mere suspicion there is no material against the petitioner.

On the other hand, Mr. Shailendra Kumar Singh, learned A.P.P. for the State has opposed the prayer for bail of the

petitioner. It is submitted that in course of investigation it has come that the petitioner is the master-mind behind the alleged occurrence. He is a co-villager of the informant. He was using mobile no. 9525591373, the SIM Card was in the name of one Dilip Kumar who had died prior to the alleged date of occurrence. It has been further found that on the alleged date of occurrence and time the mobile location of the petitioner was found together with the mobile location of co-accused Ankesh Kumar Singh, Seraj @ Bhuar Khan and Pankaj Tiwari. The investigation further reveal that the Apache and Pulsar Vehicles were earlier there with this petitioner but after the alleged occurrence those motorcycles were not seen and in course of raid, from the possession of the co-accused Ajay Kumar @ Gorakh Kumar Singh the motorcycle was seized. It has further come that on CDR analysis (paragraph '81' of the case diary) that on the date of occurrence all the co-accused and petitioner were in touch with each other, they were talking to each other in the same tower location and after the occurrence the tower location of the SIM Card of the petitioner was found that of Nai Bazar, Buxar. Many times phone calls were made by the co-accused on the mobile phone of this petitioner and further revelations have been made in paragraph 132, 138 and 144 of

the case diary based on the scientific investigation. The Apache Motorcycle was also recovered from possession of the co-accused Gorakh Kumar Singh. The vehicle owner is Rozy Khatoon and it has been found that a forged number plate was put on that.

Learned A.P.P. further submits that it has come in the case diary that on the true caller the name of this petitioner is shown in respect of the given mobile number and on the date of occurrence the petitioner had talked on mobile no. 9708488440 with Mantu Kumar and on the said number when the I.O. talked, said Mantu Kumar informed that this petitioner was his friend and presently the petitioner is in Vishakhapatnam.

Learned A.P.P. submits that it is a case of murder of two persons and the kind of scientific investigation has revealed the active participation of the petitioner, hence he does not deserve privilege of bail.

Considering the facts and circumstances of the case, there being murder of two persons and some scientific investigation of the case has revealed active participation of the petitioner in the alleged occurrence, the independent materials keeping aside the confessional statement of the co-accused are such that this court is not inclined to release the petitioner on

bail.

Prayer for regular bail of the petitioner is, thus,
refused.

Let the trial be expedited. The trial court is expected
to proceed with the trial as early as possible.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.