

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.21034 of 2021**

Arising Out of PS. Case No.-235 Year-2020 Thana- MOHANIYA District- Kaimur (Bhabua)

GAUTAM TIWARI, Son of Rama Kant Tiwari, Resident of Village- Pipra Khurd, P.O.- Babhani, P.S.- Karahgar, District- Rohtas (Sasaram).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh, Advocate

For the Opposite Party/s : Mr.Binod Kumar, A.P.P.

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

2 05-08-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Binod Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Mohania P.S. Case No. 235 of 2020 registered for the offence punishable under Section 395 of the Indian Penal Code.

As per prosecution story, on 31.07.2020 at 1.00 P.M. while the informant was returning from Motihari by Tavera Car and reached at Katrakala bridge suddenly the said car got punctured. Thereafter, the informant and his friend tried to

change stepnee. In the meantime, six unknown persons came there and looted Rs. 18,000/- cash, gold chain and mobile and took away the said car.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. Learned counsel submits that the petitioner is not named in the F.I.R., there is no recovery from the possession of the petitioner and till date no T.I.P. has been conducted to identify the petitioner in connection with the present case.

Learned counsel submits that the name of the petitioner has transpired in the confessional statement of the co-accused, the petitioner has got one criminal antecedent in which he is said to be on bail and in connection with the present case he has remained in custody since 31.08.2020. It is submitted that the co-accused namely, Jitendra Kumar and Kundan Kumar Singh have been granted bail in Cr. Misc. No. 38446 of 2020 and Cr. Misc. No. 2033 of 2021.

Mr. Binod Kumar, learned A.P.P. 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 the petitioner is not named in the F.I.R., there is

no recovery from the possession of the petitioner and till date no T.I.P. has been conducted to identify the petitioner in connection with the present case, the name of the petitioner has transpired in the confessional statement of the co-accused in Police custody, the petitioner has got one criminal antecedent in which he is said to be on bail and in connection with the present case he has remained in custody since 31.08.2020, the co-accused namely, Jitendra Kumar and Kundan Kumar Singh have been granted bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 38446 of 2020 and Cr. Misc. No. 2033 of 2021, this Court directs releases of the petitioner above named 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, Kaimur at Bhabhua in connection with Mohania P.S. Case No. 235 of 2020, subject to the condition as laid down under Section 437 (3) 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 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. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.