

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23812 of 2021

Arising Out of PS. Case No.-258 Year-2020 Thana- RIGA District- Sitamarhi

PINKU KUMAR S/O DHARMENDRA KUMAR SINGH R/o village-
Dheng Barharwa, Ward No. 11, P.S.- Suppi, District- Sitamarhi (Bihar)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate Mr. Shankar Kumar, Advocate
For the Opposite Party/s	:	Mr. KUMAR VEERENDRA NARAYAN, APP
For the informant	:	Mr. SANTOSH KUMAR, Advocate

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

5 11-08-2021 Heard learned counsel for the parties.

Petitioner seeks bail in a case registered for the offence punishable under Sections 394 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

Informant has alleged that on 28.8.2020, his deceased brother (Sujeet Kumar), who was a manager of customer service center, had gone to Riga along with Shivam Kumar (accused) on his motorcycle for withdrawing rupees five lakhs from the Bank and after withdrawing the money, when he was coming home along with said Shivam Kumar (accused), two unknown motorcycle borne miscreants intercepted them and started

snatching the bag containing rupees five lakhs from him, to which brother of the informant protested at which one miscreant driving the motorcycle fired upon him, as a result of which, he died and thereafter miscreants took away the bag containing the money and fled away.

It has been submitted on behalf of the petitioner that he is innocent and has falsely been implicated in this case on suspicion only. It is further submitted that FIR is against two unknown. Informant is not the eye witness of occurrence and FIR is based on information given by Shivam Kumar (accused). It is further submitted that had Shivam Kumar been involved in crime, it is highly improbable that he will give description of vehicle and accused.

It appears from C.D. that spy deputed has initially stated that identity of assailant could not be known from CCTV footage, however, subsequently, he has stated that bike is of Vikas Singh (accused/juvenile) and person riding bike looks like Pinku Kumar (petitioner) and pillion rider is Vikas Singh (accused / juvenile) and thereafter he was apprehended and in his confessional statement, he has confessed of committing crime with Vikas Singh (accused / juvenile) and looted money and arms has been handed over to Dhananjay Singh (accused)

upon which house of Dhananjay Singh (accused) was raided from where rupees 75 thousand and 500 as well as 5 fired cartridge were recovered, however, Dhananjay Singh (accused) was not present in his house.

Supplementary affidavit has been filed in which it is stated that marriage of sister of Dhananjay Singh (accused) was solemnized on 11.12.2019 for which his father had taken loan and in order to repay said loan, his father sold some lands and deposited the money in his Bank account and withdrew the same and some amount was left which was seized by the police and in support of which, a marriage invitation card and statement of bank account has been enclosed.

Rs. 75 thousand 500 which was recovered was not put on TIP in order to ascertain if the same was part of looted money from the deceased.

Shivam Kumar who was made accused and was travelling with deceased on his motorcycle was arrested but his statement has not been recorded although he is the sole eye witness. Petitioner has no criminal antecedent and he is in custody since 01.09.2020. Charge-sheet has been submitted.

Learned counsel for the informant has vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Riga P.S. Case No. 258/2020 with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(S. Kumar, J)

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