

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7923 of 2021

Arising Out of PS. Case No.-131 Year-2018 Thana- BARUN District- Aurangabad

Shrawan Paswan, Male, aged about 29 years son of Ramesh Paswan, Resident of Village- Belai, PS Nabinagar, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Senior Advocate Ms. Priyanka Singh, Advocate
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Yogesh Chandra Verma, learned senior counsel along with Ms. Priyanka Singh, learned counsel for the petitioner and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner is in custody in connection with Barun PS Case No. 131 of 2018 dated 04.07.2018, instituted under Sections 394, 302, 120B of the Indian Penal Code and 25(1-B)a, 26, 27 and 35 of the Arms Act, 1959.

4. This is the second attempt for bail by the petitioner as earlier such prayer was rejected by judgment and order dated 09.12.2019 passed in Cr. Misc. No. 78130 of 2019.



5. The accusation against the petitioner is that he was the person who, being in prison, had given idea to the arrested co-accused who had shot dead the driver of a Scorpio vehicle trying to loot it and had also suggested the name of the person whom the arrested person should contact for execution of such crime.

6. Learned counsel for the petitioner submitted that as per the FIR, it is the confessional statement of co-accused Govind Paswan, who was the cousin brother of the petitioner and he has only stated that when he went to visit the petitioner in jail, the petitioner suggested that for greater income, they should loot expensive four wheelers from the National Highway and had also suggested the name of persons to be contacted. It was submitted that besides the said statement having been made before the police, which is inadmissible in evidence, the only role of the petitioner is that he had suggested the arrested person to resort to looting of expensive vehicles from the National Highway. It was submitted that the petitioner has no direct role or did not operate any gang and further that even the arrested person has not said that he belonged to the gang of the petitioner. It was submitted that the petitioner is in custody since 07.12.2018.

7. Learned APP submitted that there is no change in circumstances to consider afresh the prayer for bail to the



petitioner except for passage of time. It was submitted that in the FIR itself, it has been stated that when the arrested person had gone to meet the petitioner, who is his cousin brother, he has not only suggested him to loot expensive four wheelers on the National Highway but had also disclosed the name of persons whom he should go and meet and on the basis of the same, the crime was committed. Thus, it was submitted that the petitioner is the main brain behind the entire crime and can be very well said to be the leader of the gang. Further, it was submitted that the petitioner is accused in Barachatti PS Case No. 155 of 2015 instituted under Sections 364A, 395 and 412 of the Indian Penal Code. Thus, learned APP submitted that the petitioner is the brain behind many crimes and operates even while being incarcerated and if allowed to come out, the potential to cause damage to the society is high. Further, it was submitted that there was no occasion for the cousin brother of the petitioner to expose him had it not been a fact as the police had no information or knowledge that the petitioner also was a person related to the said accused who could be implicated and, thus, the statement of co-accused cannot be said to be under duress. Learned APP submitted that even otherwise, the said statement is a valid piece of information which the police are required to follow up as in investigation, it is



one of the key sources of information to the police to proceed with the investigation and with regard to the interest of the petitioner, the same is safeguarded as everything shall have to be proved in accordance with law during trial and in which the petitioner will get ample opportunity to prove his innocence.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant bail to the petitioner.

9. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

