

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6330 of 2021**

Arising Out of PS. Case No.-145 Year-2019 Thana- HAZIPUR INDUSTRIAL District-
Vaishali

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NITISH KUMAR Son of Harinath Rai Resident of Village- Baranti, P.S.-
Rajapakar, Distt- Vaishali.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Anuj Kumar, Advocate.

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

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

3 30-07-2021 At the outset learned counsel for the petitioner submits as

there is a typographical error in the prayer portion of the petitioner in

respect of Industrial Area Police Station Case No. 145 of 2019 which

has been wrongly typed as Ganga Bridge P.S. Case No. 154 of 2019.

The correct Case No. is stated in Paragraph-1.

Let the correction be carried out.

Learned counsel for the petitioner undertakes to remove

all the defects pointed out by the Stamp Reporter within four weeks

after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Dinesh

Singh, learned APP for the State.

The petitioner in the present case is seeking regular bail in

connection with Industrial Area P.S. Case No. 145 of 2019 for the

offences registered under Section 392 of the Indian Penal Code.

Learned counsel for the petitioner submits that the alleged occurrence took place on 20.8.2019 at around 8 p.m. It is alleged that the informant was returning home after closing his shop, he had in his bag a sum of Rs. 2,45,000/-. Allegedly when he reached at NH on his Honda Shine motorcycle, three persons came on a motorcycle and surrounded him and on point of gun snatched the bag. One of the accused was tall and was talking in local language.

Learned counsel submits that petitioner is not named in the FIR however his name is transpired in the confessional statement of the accused who was arrested in Bidupur P.S. case No. 368 of 2019 but the said statement was recorded in police custody therefore it is not admissible in evidence. Learned counsel further submits that the petitioner has not been identified as no Test Identification Parade has been held and no incriminating article have been recovered from the possession of the petitioner. The petitioner has been remanded in the case on 10.1.2020. Out of six cases against him stated in Paragraph- 3 he is on bail in two cases whereas his prayer for bail in other cases is pending.

On the other hand, learned APP for the State has opposed the prayer for bail of the petitioner. He submitted that the petitioner was allegedly involved in the commission of crime and it has been disclosed by one of his accomplice who was arrested in another case. Learned APP further submits that the I.O. of this case has recorded in Paragraph-34 of the case diary that the informant of this case was

contacted to participate in TIP for identification of the accused but he refused to participate in the TIP out of fear. Learned APP further submits that the looted money has not been recovered.

Considering the facts and circumstances of the case wherein this Court finds that so far as the present case is concerned his name has come in the confessional statement of the co-accused who was arrested in another case, in this case the petitioner has neither been identified nor any incriminating article or money has been recovered from his possession, the informant refused to participate in T.I.P. as mentioned by the I.O., in such circumstance considering that the charge sheet has already been filed against the petitioner, this Court directs release of the petitioner above-named on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned C.J.M, Vaishali at Hajipur, in connection with Industrial Area P.S. Case No. 145 of 2019, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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.

Further condition that till conclusion of trial it would be mandatory for the petitioner to mark his attendance before the SHO of Rajapakar Police Station in the District of Vaishali once in every two months with his complete residential address and mobile number. In case the petitioner is required to go outside the jurisdiction of the police station in connection with any employment or for any other purpose would give prior information in this regard to the police station. Failure to abide by the condition shall invite action towards cancellation of bail. The SHO of police Station would be responsible to file an appropriate application in learned court below itself to cancel the bail bond of the petitioner.

The petitioner shall cooperate in course of trial by attending the case on date fixed in the matter, two consecutive defaults in putting appearance shall lead to action towards cancellation of bail of the petitioner.

Let the copy of the same be communicated to S.P. Vaishali who will direct the SHO to take note of the conditions mentioned by this Court and keep on reporting accordingly.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.