

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 8178 of 2021

Arising Out of PS Case No.-154 Year-2019 Thana- BANKA District- Banka

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Rohit Kumar, aged about 22 years (Male), Son of Shyam Manjhi, Resident of
Village-Pilua, PS-Bounsi, District-Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sayed Ashfaque Ahmad, Advocate

For the State : Ms. Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 03-02-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Syed Ashfaque Ahmad, learned counsel
for the petitioner and Ms. Renu Kumari, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner is in custody in connection with Banka
PS Case No. 154 of 2019 dated 12.03.2019, instituted under
Section 379 of the Indian Penal Code.

4. This is the second attempt for bail by the petitioner as
earlier such prayer was rejected by order dated 19.06.2020 in Cr.
Misc. No. 15554 of 2020.



5. The allegation against the petitioner, though not named in the FIR, is of stealing over Rs. 4 lakhs from the dicky of the motorcycle of the informant.

6. Learned counsel for the petitioner submitted that the biggest hurdle faced by the petitioner in the present case is that there is observation by the Investigating Officer that he has been identified in the Test Identification Parade (hereinafter referred to as the 'TIP'). It was submitted that the same does not disclose as to who has identified and the same also is highly doubtful for the informant himself has written in the FIR that when he had gone to buy a bag, the money was stolen from the dicky by unknown persons. Thus, he submitted that it is obvious that he had not seen the person(s) who had committed the theft and therefore there cannot be any question of identification. Learned counsel submitted that only after the implication of the petitioner in the present case, that too, on the confessional statement of co-accused Chandan Yadav, he has been made accused in other five cases. Learned counsel submitted that the petitioner is in custody since 24.09.2019 and further that co-accused Chandan Kumar has been granted bail by a co-ordinate Bench on 01.06.2019 in Cr. Misc. No. 87085 of 2019.



7. Learned APP submitted that the petitioner has been identified in the TIP. However, he could not explain as to how the petitioner is said to have been identified in the TIP when the allegation is that the informant was not a witness to commission of the crime.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Banka in Banka PS Case No. 154 of 2019 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to



cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

9. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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