

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2056 of 2022

Arising Out of PS. Case No.-409 Year-2021 Thana- BANKA District- Banka

MD KAUSAR Son of Md. Shahjahan Resident of Village - Khadihara, P.S.-
Barahat, Distt.- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baxi S.R.P. Sinha, Sr. Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 10-10-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Baxi S.R.P. Sinha, learned senior counsel
for the petitioner and Mr. Satyendra Narayan Singh, learned
Additional Public Prosecutor for the State.

At the very outset, leaned counsel for the petitioner
submitted that on account of inadvertence, the name of the
father of the petitioner has been wrongly typed and as such, he
seeks permission to make necessary correction in this regard.

Permission is accorded.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Banka P. S. Case No. 409 of 2021



registered for the offences punishable under Sections 395 and 397 of the Indian Penal Code and Section 3/4 of the Explosive Substances Act.

The prosecution case is based on *fardbayan* of the informant alleging therein that on 25.05.2019 at about 01.55 A.M., while the informant along with one Vikas Sahi being staff of Mahadev Enclave Pvt. Ltd. At Shankarpur Dharmkanta were issuing challans for the truck carrying sand and in the meantime, 5-6 miscreants wearing masks on their faces and having country-made pistols in their hands entered into the office of the informant and took away Rs. 10 Lakh kept in two boxes. It is also alleged that the during the course of fleeing the miscreants made firing from their pistols.

Learned senior counsel appearing on behalf of the petitioner submitted that admittedly the F.I.R. has been instituted against unknown persons, however, during the course of investigation, co-accused Heera @ Md. Heera @ Majnu @ Md. Majnu was apprehended and the name of the petitioner has surfaced in his confessional statement. It has also transpired that in course of occurrence the accused persons were calling the name of their friends as Heera, Kaushar, Hussain, Babloo, Tanjoor and Shahrukh on the basis of which the petitioner was



also made accused in this case. It is also submitted that during the course of investigation, the petitioner was apprehended on 04.06.2021 and on search, a country-made pistol with live cartridges along with Rs. 40,000/- currency notes were recovered. So far the recovery of country-made pistol and live cartridges are concerned, a separate F.I.R. was registered in which the petitioner is on bail, however, the petitioner is in custody since 04.06.2021 but till date neither the currency notes allegedly recovered from the house of the petitioner nor the petitioner has been put on Test Identification Parade. It is further submitted that the entire prosecution case is based on suspicion and there is no cogent material against the petitioner and only on account of the fact that earlier the petitioner and other accused persons were working as labourer/staff in Mahadev Enclave Pvt. Ltd. at Shankarpur Dharmkanta, his name has also been implicated in this case. While concluding his submission, learned senior counsel for the petitioner last submitted that other co-accused persons having more or less similar allegation and from whose possession some cash amount was also recovered, have already been granted bail by learned co-ordinate Benches of this Hon'ble Court in Cr. Misc. No. 66774 of 2021 and in Cr. Misc. No. 1275 of 2022 vide orders dated 24.05.2022.



On the other hand, learned APP for the State opposed the bail application and submits that from the seizure list, it appears that the looted amount of Rs. 40,000/- has been recovered from the possession of the petitioner and co-accused persons have confessed about complicity of the petitioner in the present crime. It is also submitted that the petitioner is found involved in four other criminal cases.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the F.I.R. has been instituted against unknown persons and the petitioner is in custody since 04.06.2021 but till date neither the recovered amount nor the petitioner has been put on T.I.P., apart from other co-accused persons having more or less identical allegation have already been granted bail by learned co-ordinate Benches of this Hon'ble Court, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Banka P. S. Case No. 409 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-



- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) 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 cancelling 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.

(Harish Kumar, J)

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