

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25914 of 2022

Arising Out of PS. Case No.-338 Year-2021 Thana- BANKA District- Banka

SARBAN YADAV @ KARU YADAV S/o Arvind Yadav R/o village-
Kushmaha, P.S.- Bounsi, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 10154 of 2022

Arising Out of PS. Case No.-338 Year-2021 Thana- BANKA District- Banka

AKBAR ANSARI Son of Late Rajjak Ansari @ Tiku Resident of Village-
Ekoriya (Korara), P.S.- Banka, District- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 25914 of 2022)

For the Petitioner/s : Mr. Ranjan Kumar

For the Opposite Party/s : Mr. Jitendra Kumar Singh

(In CRIMINAL MISCELLANEOUS No. 10154 of 2022)

For the Petitioner/s : Mr. Ajay Mukherjee

For the Opposite Party/s : Ms. Meena Singh

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 03-08-2022 The learned counsel for the petitioners is directed to

remove all the defects pointed out by the Stamp Reporter within one

month.

Both the petitions have been heard together as they arise

out of the same police station case number and are being disposed of

by this common order.

Heard learned counsel for the petitioners and the State.



Petitioners seek regular bail in a case registered for the offence punishable under Section 392 of the Indian Penal Code.

As per prosecution story on 1.5.2021 informant and his driver were coming on a pickup van and on the way, two miscreants riding on a motorcycle overtook the said van and stopped them and looted Rs 500/-, mobile phone from possession of the informant and Rs 1700/-, mobile phone from possession of driver of the informant and alleged occurrence of loot was committed by the accused persons at the point of firearms.

The main submissions advanced by Sri Ranjan Kumar the learned counsel appearing for the petitioner- Sarban Yadav @ Karu Yadav are that the petitioner is not named in the FIR, his name surfaced in the statement of Akbar Ansari, he was not arrested at the spot and after his arrest, petitioner was not put on test identification parade and he has been languishing in jail since 14.2.2022.

Learned counsel Sri Ajay Mukherjee appearing for the petitioner- Akbar Ansari submitted that in respect of the petitioner Akbar Ansari, no test identification parade was conducted and after his arrest he has been languishing in jail since 3.8.2021 and against the petitioner there is criminal antecedent of three cases in which he is on bail.

Learned APP has opposed the prayer for bail and accepted that no looted article has been recovered from possession of both petitioners after they have been taken into custody.



Heard both sides and perused the FIR as well as case diary. It appears that mainly relying upon statements of co-accused Fantus Kumar and the petitioner- Akbar Ansari both petitioners have been charge sheeted and except statements, no material has come against them and said fact has been accepted by learned APP and moreover, investigation has been completed in respect of both petitioners and they are facing trial and the same is at initial stage and it is also admitted position after arrest of both petitioners prosecution failed to recover any looted article from the possession of the petitioners.

Considering these facts, in the opinion of this Court, both petitioners deserve privilege of bail. Let both petitioners be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Banka in Banka (Barhat) P.S Case No. 338 of 2021 on the following conditions:-

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

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



(3) One of the bailers shall be close relative of the
petitioners who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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