

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12552 of 2022**

Arising Out of PS. Case No.-610 Year-2021 Thana- DIGHA District- Patna

=====

Suprabhat Chaubey, S/O Arvind Chaubey, R/o village- Chaubey Bel, P.O.-  
Babu Bel, P.S.- Haldi, District- Baliya (Uttar Pradesh), Pin Code- 277402

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

with

**CRIMINAL MISCELLANEOUS No. 20686 of 2022**

Arising Out of PS. Case No.-610 Year-2021 Thana- DIGHA District- Patna

=====

Uma Shankar Tiwari, S/o Shyam Vijay Tiwari @ Vijay Shankar Tiwari R/o  
village- Milki, P.S.- Paliganj, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 12552 of 2022)

For the Petitioner/s : Mr. Bashishtha Narayan Mishra  
Mr. Brij Kishor Mishra

For the Opposite Party/s : Mr. Tarun Prasad Mandal

(In CRIMINAL MISCELLANEOUS No. 20686 of 2022)

For the Petitioner/s : Mr. Bashishtha Narayan Mishra  
Mr. Nagmani Kumar



For the Opposite Party/s : Mr. Dr. Mrityunjaya Kr. Gautam

---

---

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL ORDER**

7      12-09-2022                      Heard learned counsel for the petitioners and  
learned APP for the State.

The petitioners seek bail in connection with Digha P.S. Case No. 610 of 2021 registered for the offences punishable under Sections 406, 409, 419, 420, 379, 120(B)/34 of the Indian Penal Code.

The prosecution case as emerges from the F.I.R. is that the accused-petitioners had uploaded an amount of Rs 21,12,500/- in the ATM machine on 01.10.2021. However, the ATM goes down on 03.10.2021 and when the ATM was visited by the concerned officials of Security and Intelligence Services (India) Ltd. (hereinafter referred to as "SIS" for short), it was found that CPU of the ATM was missing. Thereafter, on 07.10.2021 when the petitioners and one Cash Officer, Mr. Mukesh, went to audit the ATM, they found that the key pad of the ATM vault was missing. Thereafter, the vault was broken on 19.10.2021 by the officials and it was found that no money was there whereas Rs.



21,12,500/- should have been there. An inquiry was conducted and it was found that the accused-petitioners have misappropriated the said amount.

The learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He further submits that even after investigation, it has been found that the whole amount was uploaded in the ATM on 01.10.2021 and when on 07.10.2021, the petitioners visited the ATM, it was found that keypad of the vault was missing. As per the requirement, ATM vault was broken on 19.10.2021 and money was not found. He further submits that the one time password was given to the accused-petitioners only at the time of uploading and thereafter on 07.10.2021, when SIS officials visited the ATM and there is no other occasion on which they have got the one time password. So there is no scope of any doubt that the accused-petitioners are guilty of misappropriating or stealing the money from the ATM.

The petitioners have been languishing in jail since 21.10.2021.



It is also stated in paragraph no. 2 of the petition that the petitioner have never moved before this Court for grant of anticipatory bail or regular bail.

It has further been stated that the petitioners have no criminal antecedent.

However, the learned APP for the State opposes the prayer for bail. However, he is unable to counter the submission advanced by the learned counsel for the petitioners that one time password was given to the accused-petitioners on other than 1<sup>st</sup> October and 7<sup>th</sup> October, 2021. Even as per the case-diary, he admits that money can be taken away only by using the passwords or breaking the vault and it is apparent that password was given to the accused-petitioners only on 1<sup>st</sup> of October, 2021 to upload the money and as per the case-diary the money was uploaded on 01.10.2021 as I.O. has found and thereafter there was no occasion to give password to the accused-petitioners except on 07.10.2021 at the time of inquiry along with SIS officials.

Considering the aforesaid facts and circumstances,



the petitioners, above-named, are directed to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned SDJM, Patna in connection with Digha P.S. Case No. 610 of 2021, **after framing of charge**, on the following conditions:

(i) The petitioners will make themselves available for interrogation by a police officer/court as and when required.

(ii) The petitioners will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The petitioners shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioners have any criminal antecedents, the



learned court below shall cancel the bail bond of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioners.

The application stands allowed accordingly.

The learned counsel for the petitioners is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

**(Jitendra Kumar, J)**

ashishkr/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

