

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13733 of 2022

Arising Out of PS. Case No.-138 Year-2021 Thana- MUZAFFARPUR RAIL P.S. District-
Saran

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AWADHESH KUMAR, Son of Binod Rai @ Binod Ray Resident of Village -
Mothahan Mal, P.s.- Minapur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar Pathak

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

4 17-08-2022 Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner seeks bail in connection with

Muzaffarpur Rail P.S. Case No. 138 of 2021, registered for

the offences punishable under Sections 307, 328 and 379 of

the Indian Penal Code.

As per allegation, when the informant and his three

friends got down from the Saryu Yamuna Express, a boy



came there and asked them to come with him. Thereafter, the said boy offered them Maza drinks and after consuming the said drink, they became unconscious. It is further alleged that the said boy had looted their bags containing some valuable articles.

The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the petitioner is not named in the F.I.R. and his name has been dragged only on the basis of suspicion. He also submits that though the alleged theft mobile, belonging to the informant, has been recovered from the petitioner, but he submits that the search and seizure has not been made as per the rules as provided by Cr. P.C. He further submits that the petitioner was neither arrested on the spot nor T.I.P. has been conducted till date. He also submits that the petitioner has been languishing in jail since 09.10.2021 i.e. for more than ten months.

It is also stated in paragraph no. 2 of the petition that the petitioner has never moved before this Court for



grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner has earlier been made accused in one more case, namely, Minapur P.S. Case No. 77 of 2020.

However, the learned APP for the State vehemently opposes the prayer for bail saying that there is recovery of mobile from the petitioner which shows his involvement in the alleged crime. He further submits that the charge-sheet has been submitted and cognizance has been taken against him.

Considering the aforesaid facts and circumstances, particularly the period of custody as well as the fact that the petitioner is not named in the F.I.R., he is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Railway Judicial Magistrate, Ist Class, Sonapur (Saran) in connection with Muzaffarpur Rail P.S. Case No. 168 of 2021, **after framing of charge**, on the following conditions:

(i) The petitioner will make himself available for



interrogation by a police officer/court as and when required.

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

(iii) The petitioner 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 him 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 petitioner has criminal antecedent other than the disclosed one, the learned court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his 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 petitioner.



The application stands allowed accordingly.

The learned counsel for the petitioner 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)

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