

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14346 of 2022

Arising Out of PS. Case No.-45 Year-2021 Thana- PIPRA District- Supaul

Kanhaiya Kumar, S/o Balkrishna Yadav R/o village- Pipra, Ward No. 01, P.S.-
Saurbazar (Prtarghat O.P.), District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 06-09-2022 The learned counsel for the petitioner is directed to
remove all the defects pointed out by the Stamp Reporter within
one month.

Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with Pipra
P.S. Case No.45 of 2021 registered for the offences under
Section 394 of the Indian Penal Code and Section 27 of the
Arms Act.

As per the prosecution's allegation, on the alleged
date and time of occurrence the informant went to purchase
cattles along with some other businessmen and on the way, four
accused persons riding on motorcycles stopped the informant's
vehicle and pointed a pistol and thereafter fired at them, owing



to that firing informant sustained fire-arm injury and after that Rs.1,50,000/- and a mobile phone were snatched away by the accused persons and thereafter the accused persons fled away.

The main submissions advanced by the learned counsel Mr. Arun for the petitioner are that against the petitioner there is criminal antecedent of twelve cases apart from the present matter and he has got bail in ten cases of the total antecedents, in the instant matter, the FIR was lodged against the unknown persons and during the course of investigation the petitioner was remanded in this case from another case and after his arrest in this case he was not put on Test Identification Parade and no incriminating material relating to the present case was recovered from the possession of this petitioner and he has been languishing in jail since 16.06.2021 and merely on the basis of petitioner's own confession made before the police he has been made accused and he has been chargesheeted and against him there is no any legal material to connect him to the alleged crime of loot.

Learned APP Mr. Ram Naresh Ray appearing for the State has opposed the bail prayer but accepted that against the petitioner there is no material except the statement of this petitioner and co-accused persons made before the police.



Heard both the sides and perused the FIR and the case diary of this case. The learned APP has not drawn the attention of this Court to any incriminating material in the case diary connecting this petitioner to the alleged crime, though as per the paragraph No.28 of the case diary it has been alleged that Rs.90,000/- of the looted money was recovered from the possession of this petitioner and co-accused persons but the prosecution has failed to produce any evidence of Test Identification Parade concerned to the said recovered money and simply in this regard a statement has been made in paragraph No.28 of the case diary, and the case diary goes to show that the police mainly relied upon the statement of this petitioner and co-accused persons while chargesheeting this petitioner for the alleged occurrence in this case. Considering these facts in the opinion of this Court, a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner 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 concerned Court in connection with Pipra P.S. Case No.45 of 2021, on the following conditions:-

(1) Petitioner 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers 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 a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J.)

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