

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3531 of 2022

Arising Out of PS. Case No.-819 Year-2020 Thana- SONEPUR District- Saran

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Rahul Kumar S/o Asharfi Sahani Resident of Village- Bharpura, P.S.-
Sonepur, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

with

CRIMINAL MISCELLANEOUS No. 15328 of 2022

Arising Out of PS. Case No.-819 Year-2020 Thana- SONEPUR District- Saran

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Dasharath Kumar @ Akash Kumar Son of Dwarika Rai Resident of village -
Pravejabad, P.S.- Sonpur, District - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 3531 of 2022)

For the Petitioner/s : Mr. Tej Narayan Singh, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 15328 of 2022)

For the Petitioner/s : Mr. Prabhakar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 29-08-2022 Both the criminal miscellaneous petitions relate to

the same P.S. case, hence they are being decided by a common

order.

The learned counsels for the petitioners are directed

to remove all the defects pointed out by the Stamp Reporter

within one month.



Heard learned counsels for the petitioners and the learned APP for the State.

Petitioners seek regular bail in connection with Sonapur P.S. Case No. 819 of 2020 registered for the offence under Section 392 of the Indian Penal Code.

As per allegations, the informant along with some other persons were returning to Hajipur on a bike and a car, meanwhile three miscreants stopped the informant's motorcycle and looted informant's bag containing a laptop and some other papers etc. on a gunpoint and fled away.

The main submissions advanced by the learned counsel Mr. Tej Narayan Singh for the petitioner (in Cr. Misc. No.3531 of 2022) are that the petitioner has not been named in the FIR and his name has surfaced in the confessional statement of a co-accused and no any incriminating article has been recovered from the possession of this petitioner, charge-sheet has been submitted, no TIP has been conducted and he has been languishing in jail since 20th March, 2021 and he has got antecedents of five cases against him but he has been made accused in all the said cases mainly on the basis of confessional statement.

The main submissions advanced by the learned coun-



sel Mr. Prabhakar Singh on behalf of the petitioner (in Cr. Misc. No.15328 of 2022) are that the petitioner's name has surfaced in the confessional statement of a co-accused person made before the police which has no evidentiary value and no any incriminating article has been recovered from the possession of this petitioner and the petitioner has not been named in the FIR, no TIP has been conducted till now. Further submissions are that the petitioner has got antecedent of four cases and has been languishing in jail since 2nd September, 2021.

Learned APP Mr. Dinesh Singh appearing for the State has opposed the bail prayer.

Heard both the sides and perused the FIR and the order of the learned Court below. The present case relates to loot and allegedly the accused persons stopped the motorcycle of the informant when he was returning from his bank and thereafter the accused persons looted laptop, ID Card, car's key, etc. from the possession of the informant. The petitioners have taken the plea that the investigation in respect of them has been completed and during the investigation and after their arrest they were not put on Test Identification Parade by the police and any looted article concerned to the present case was not recovered from their possession and they were remanded in several cases on the



basis of co-accused's statement given before the police and against them there is no evidence except said statement and their criminal antecedents. The said defences taken by the petitioners have not been refuted by the learned APP and in this regard the Court's attention has been drawn to the operative portion of the learned Court below. Considering these facts and mainly the defences taken by the petitioners, in the opinion of this Court the petitioners deserve to the privilege of bail as the prosecution stands against them mainly on the basis of their criminal antecedents and co-accused's statement given before the police. Accordingly, let the 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 concerned Court in connection with Sonapur P.S. Case No. 819 of 2020, 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 a close relative of the
petitioners who has sworn affidavit in this miscellaneous peti-
tion.

(Shailendra Singh, J.)

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