

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19219 of 2022**

Arising Out of PS. Case No.-708 Year-2020 Thana- BEGUSARAI TOWN District- Begusarai

PRITAM KUMAR @ BALA Son of Sanjay Thakur Resident of Village -
Ward no.32, Near Raja Tailor, Mungeriganj, P.S.- Town, Distt.- Begusarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pritish Kumar Lal, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 29-09-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with J.J.C.P. P.S. Case No. 18 of 2021 arising out of Nagar P.S.
Case No. 708 of 2020 for the offences under Section 394 of the
Indian Penal Code and Section 27 of the Arms Act.

In this case, case diary was called for on 29.7.2020
which has since been received.

As per the prosecution story, the accused persons
stormed in the jewellery shop and on the pistol point looted
away cash and jewellery worth Rs. Two lakhs but not before
injuring the informant also. The petitioner, who has three



criminal antecedents under his belt, was arrested and on the basis of C.C.TV. Footage camera, the informant also identified them.

Learned counsel for the petitioner submits that a bare perusal of the FIR would show that the informant has alleged about 'Dacoity' of gold ornaments worth Rs. 2,00,000/- although, in the case diary, the recovery that has been shown from the house of the petitioner, all the recovered materials are silver which were not part of the FIR and as such it cannot be said that the silver ornaments that has been taken by the police from the house of the petitioner belongs to the shop in question. He further submits that the procedure that has to be adopted for identification of an accused person has not been followed as can be seen from paragraph-136 of the case diary. It has further been submitted that the petitioner is in custody since 21.12.2020 and some of the similarly situated co-accused namely Shiva Paswan @ Saivjee and Gautam Kumar have since been released on bail vide Cr. Misc. No. 17569 of 2022 and 64233 of 2021 respectively.

Per contra, Mr. Bharat Bhushan, learned APP submits that para-53 of the case diary shows recovery of silver ornaments and in the last part of the case diary, the informant



has identified the same to be from his shop and as such the petitioner cannot claim himself to be on the same page as that of the other accuseds.

In reply to the said submission of the learned APP, the learned counsel for the petitioner submits that in view of the specific narration in the FIR that the gold ornaments were looted, any recovery/seizure of the police of silver ornaments cannot bring him in the category of accused and as such the said ornaments cannot be the part of the FIR only because the informant has claimed to be of his own and as such reiterates that in view of the incarceration of the petitioner since 21.12.2020 he deserves bail.

Considering the rival submissions made by the learned counsel for the petitioner and the State as also the fact that the allegation is of loot of gold ornaments, the other accuseds have since been released on bail, as stated above, the petitioner is in custody since 21.12.2020 and charge-sheet stands submitted, this Court is inclined to grant him the privilege of bail after framing of the charge with conditions in view of the fact that he has criminal antecedents.

Let the petitioner be released on bail after framing of charges on furnishing bail bond of Rs. 10,000/- (Ten Thousand)



with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-I, Begusarai, in connection with J.J.C.P. P.S. Case No. 18 of 2021 arising out of Nagar P.S. Case No. 708 of 2020 subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial Court itself;

(iii) the petitioner shall leave his/her district (Begusarai) for a period of one month(s) after providing name and address and police station of his place of stay during the said period and he shall be duty bound to visit the police station (where he/she will stay) every week to mark his attendance;

(iv) upon return to his district, he shall visit the concerned police station every fortnight for the next six months to mark attendance;

(v) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for



cancellation of the bail bonds;

(vi) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Ravi/Ajay Singh

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