

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23004 of 2022**

Arising Out of PS. Case No.-339 Year-2021 Thana- MADHUBANI TOWN District-
Madhubani

=====

ABHINANDAN KUMAR S/o Chuchun Mahto R/o village- Kushmari, P.S.-
Riga, Ward No. 10, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Prabhakar Thakur
For the Opposite Party/s : Mr.Ram Sumiran Rai

=====

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 22-07-2022 Heard learned counsel for the petitioner as well as
learned APP for the State through video conferencing.

Petitioner seeks regular bail in a case registered for
the offences under sections 461 and 379 of the Indian Penal
Code.

As per allegation on 14.10.2021 in the morning when
the informant opened the shutter of his shop then he found the
mobile covers being scattered on the ground and thereafter he
searched his shop and found that 47 pieces of mobile phones
had been stolen from his shop.

The main submissions advanced by learned counsel
for the petitioner are that the FIR of the present case was lodged
14 days after the alleged occurrence of theft, the petitioner is not



named in the FIR, he has been languishing in jail since 24.01.2022 having clean antecedent and he bonafidely purchased one mobile phone of “Oppo company” which is alleged to be a stolen mobile phone of the informant's shop and in this regard the petitioner’s confessional statement may be perused on which the police have placed reliance and petitioner revealed before the police that he had purchased the said recovered mobile phone from one namely Raghvendra Kumar for consideration amount of Rs. 12,000/- and merely on the basis of recovery of said mobile phone from petitioner’s possession he has been made accused in this case.

The learned APP appearing for the State has opposed the prayer for bail and submitted that from possession of the petitioner, one stolen mobile phone was recovered.

Heard both sides and perused the FIR. Though as per allegation, one stolen mobile was recovered from the possession of the petitioner but it appears from the order of the learned court below that the petitioner revealed before the police that he had purchased the said mobile phone from one namely, Raghvendra Kumar by paying Rs.12,000/- as consideration money and the prosecution not only believing the recovery of said mobile phone but also placing reliance on the statement of



the petitioner, submitted charge sheet against him. Petitioner has clean antecedent and has been languishing in jail since 24.01.2022 and as per petitioner's counsel's submission charge has been framed in this case and his case is at initial stage of trial and it also appears that from the possession of petitioner only one stolen mobile phone was recovered while the present case relates to the incident of theft committed in respect of 47 mobile phones. In view of these facts as well as considering above submissions, petitioner deserves to lenient approach of this Court. 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 Chief Judicial Magistrate, Madhubani in Madhubani Town P.S Case No. 339 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 close relative of the



petitioner who has sworn affidavit in this miscellaneous petition.

The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

Shahid/pooja/-

U		T	
---	--	---	--

