

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34556 of 2022

Arising Out of PS. Case No.-161 Year-2021 Thana- DALSINGHSARAI District- Samastipur

GOLU KUMAR @ GOLU BIND @ GOLU SINGH SON OF JITENDRA
SINHG R/O VILLAGE- CHHAMTHA, P.S.- BACHHWARA, DISTRICT-
BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 23079 of 2022

Arising Out of PS. Case No.-161 Year-2021 Thana- DALSINGHSARAI District- Samastipur

RAHUL KUMAR Son of Shiv Shankar Rai @ Shiv Shankar Ray Resident of
Village - Sahit, P.S.- Vidyapati Nagar, District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 34556 of 2022)

For the Petitioner/s : Mr.Surya Narayan Roy

For the Opposite Party/s : Mr.Ajit Kumar

(In CRIMINAL MISCELLANEOUS No. 23079 of 2022)

For the Petitioner/s : Mr.Alok Kumar Sinha

For the Opposite Party/s : Mr.Rajendra Singh

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

2 12-09-2022

The learned counsel for the petitioners is directed to

remove all the defects pointed out by the Stamp Reporter within
one month.

Both the petitions are heard together and are being
disposed of by this common order as they arise out of the same
police station case number.

Heard learned counsel for the petitioners and the



State.

Petitioners seek regular bail in Dalasingsarai P.S Case No. 161 of 2021 registered for the offence punishable under Section 395 of the Indian Penal Code.

As per allegation, the informant alleged that he was intercepted by three unknown miscreants who looted his motorcycle, Rs 12,500/- along with other articles as detailed in the FIR.

The main submissions advanced by learned counsel Shri Surya Narayan Roy appearing for the petitioner-Golu Kumar are that the petitioner is not named in the FIR, he has been dragged in this case mainly on the basis of confessional statement of co-accused, given before the police which has no evidentiary value and after the petitioner's arrest in this case he was not put on test identification parade and against him investigation has been completed. Further submission is that the petitioner has been languishing in jail since 09.08.2021 without any legal evidence and one co-accused namely, Amarnath Mahto carrying similar nature of allegation has been granted privilege of bail by a co-ordinate bench of this Court vide order passed in Cr. Misc. No. 3953 of 2022. Further submission is that against the petitioner there is criminal antecedent of nine cases



and he has got bail in four cases out of the said nine cases.

Learned counsel Shri Alok Kumar Sinha appearing for the petitioner-Rahul Kumar submits that the petitioner has been remanded in this case on 09.08.2021 from Vidyapati Nagar P.S. Case no.77/2021 on the basis of confessional statement of co-accused and after his arrest in the present case no any incriminating material or looted article was recovered from his possession and he has also not been put on test identification parade.

Learned APPs, Sri Ajit Kumar and Sri Rajendra Singh, appearing for the State have opposed the prayer for bail.

Heard both sides and perused the FIR as well as case diary. The present case relates to loot and both the petitioners have taken the defence that after their arrest in the present case they were not put on test identification parade. The said defence has not been refuted by the prosecution. One co-accused namely, Amarnath Mahto who is also carrying similar nature of allegation has been granted bail by a co-ordinate bench of this Court vide order passed in above mentioned criminal miscellaneous case and the case of both the petitioners stands on similar footing with said co-accused, investigation has been completed against the petitioners as appears from the case diary.



All these discussed facts demand a lenient approach to the prayer of both the petitioners but keeping in view their criminal antecedents of several cases and also the fact that looted motorcycle of the present case was recovered from the possession of co-accused persons including the petitioners and in this regard the paragraph 19 of case diary is important which goes to show that from the possession of petitioners and co-accused persons firearms and four motorcycles including the looted motorcycle of the present case were recovered which demands that the conduct of the petitioners should be kept under watch for some period, when they remain on bail and accordingly the prayer of both the petitioners stands allowed provisionally for one year.

Let both the petitioners be released on provisional bail for the period of one year on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Addl. Chief Judicial Magistrate I, Dalasingsarai, District Samastipur/ concerned court in Dalasingsarai P.S Case No. 161 of 2021.

And also on this condition that both the petitioners shall make their attendance in the police station concerned where they reside every fortnight during their period



of provisional bail. The S.H.O, of police station concerned where both the petitioners will make their attendance, shall send the attendance report of both the petitioners to the court concerned, if any wrong in respect of the conduct of any of the petitioners or petitioners' further involvement in any criminal activity after the release is found then the S.H.O shall intimate the said conduct or activity of the petitioners to the court concerned immediately with the attendance report of the petitioners and on receiving such report the court below shall take serious action against the concerned petitioners by cancelling his/their bail bond. If the petitioners make their attendance regularly in the police station concerned as per above direction and their conduct remains good during the said period of provisional bail then the court below, after being satisfied from the report of police station concerned, shall confirm the provisional bail granted to the petitioners on the same bond sureties taken under this order.

(Shailendra Singh, J)

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