

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22495 of 2022

Arising Out of PS. Case No.-168 Year-2021 Thana- BUXAR MUFFSIL District- Buxar

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Gaurav Kumar @ Gaurav Kumar Chaudhary @ Gaurav Chaudhary Son Of
Gulab Chandra Kewat Permanent Resident Of Bashgadhwa, P.S.-
Basudevpur, District- Munger, At Present Resident Of Pandeypatti Colony,
P.S.- Buxar (Muffasil), District- Buxar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Parijat Saurav, Advocate.

For the Opposite Party/s : Mr. Dr. Indivar Kumari, APP.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 03-08-2022 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 Buxar
Muffasil P.S. Case No. 168 of 2021 registered for the offences
under Sections 394 and 411 of the Indian Penal Code.

As per allegation on the alleged day and time of
occurrence the informant was riding his motorcycle meanwhile
he was hit by another motorcycle from behind which was being
ridden by accused persons and after that the accused persons
looted a cash of Rs.44,000/-, chequebooks and bank passbooks



and some other documents on the point of a pistol and after that on hearing alarm raised by the informant some villagers gathered and one of the accused was caught by the said villagers who was handed over to the police and from his possession Rs.4,000/- and a mobile phone were recovered and the said apprehended co-accused revealed his name as Rakesh Kumar Gupta.

The main submissions advanced by learned counsel Parijit Saurav for the petitioner are that admittedly the petitioner was not arrested at the spot, his name surfaced in the statement of co-accused Rakesh Kumar Gupta who was caught by the villagers at the spot as per the prosecution's story and the said co-accused has been granted bail by the co-ordinate bench of this Court vide order passed in Cr. Misc. No. 4407 of 2022 and another co-accused namely Deepak Koiri whose role in the alleged occurrence was revealed by co-accused Rakesh Kumar Gupta, has also been granted bail by a co-ordinate bench of this Court vide order passed in Cr. Misc. No. 22484 of 2022. Further submission is that after the arrest no recovery of any incriminating article concerned to the alleged loot was made from the possession of this petitioner and against him the investigation has been completed and he has been languishing in



jail since 15.06.2021 and he is behind the bars mainly on the basis of statement of co-accused Rakesh Kumar Gupta.

Learned APP Indihar Kumari appearing for the State has opposed the bail prayer.

Heard both the sides and perused the FIR. Admittedly, the petitioner was not arrested at the spot, his name surfaced in the statement of co-accused Rakesh Kumar Gupta who has been granted bail by a co-ordinate bench of this Court vide order passed in above-mentioned criminal miscellaneous and the petitioner has taken the plea that after his arrest any recovery of looted ornaments has not been made from his possession and he has been not put on Test Identification Parade, the said plea has not been refuted by learned APP and accordingly, it appears that mainly on the basis of statement of co-accused made before the police as well as on the basis of criminal antecedent the petitioner has been charge-sheeted in the present case. Considering these facts as well as the petitioner's custody period, in my view a lenient approach can be taken in respect of 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 concerned Court in Connection with Buxar Muffasil P.S. Case No. 168 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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