

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37016 of 2021

Arising Out of PS. Case No.-1052 Year-2019 Thana- NAGAR District- Vaishali

MD. ARSHAD ALAM Son of Md. Ijhar Alam @ Izhar Alam Resident of
Village - Bag Dulhan Hajipur, P.S.- Hajipur Town, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr.Aditya Narayan Singh.1

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 22-02-2022 Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect (s), if any, be removed within two
weeks.

The petitioner, who is in custody since 02.01.2021,
seeks regular bail in connection with Hajipur Town P.S. Case
No. 1052 of 2019, for the offence punishable under Section 397
of the Indian Penal Code.

The prosecution case, in brief is that petitioner along
with other co-accused persons looted ornaments 55.777 kg of
gold, 3.132 gm and 200 mg. of gold jewellery from Muthoot
Fiance Branch at Hajipur. The jewellery was handed over to
Mostt. Seeta Devi who is wife of co-accused Dharmendra Rai
and the jewellery was recovered from the house of said Mostt.



Seeta Devi and Sangeet Devi in course of raid and gold were recovered from other co-accused.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in this case on the basis of confessional statement of one co-accused, Lal Babu, as would appear from para 28 of the case diary, the petitioner was arrested on suspicion and his confessional statement was recorded under duress coercion and undue influence which is not admissible under Section 25 of the Evidence Act. Learned counsel further submits that the petitioner has not been put on T.I. Parade as the same has not been conducted till date. He further submits that the co-accused, Rama Shankar Rai, has been released on bail vide order dated 23.11.2020 passed in Cr. Misc. No.22960 of 2020 from whose possession also nothing was recovered. He further submits that the co-accused from whose house, the recovery of ornament was made has also been enlarged on bail vide order dated 29.06.2020 passed in Cr. Misc. No. 21189 of 2020 and one Shanti Devi, w/o Late Anil Sharma from whose possession looted jewellery was recovered from her house has also been released on bail by this Court vide order dated 17.12.2020 passed in Cr. Misc. No.33729 of 2020. In this regard, he



submits that the case of the petitioner is on better footing as nothing has been recovered from his possession and as such be released on bail.

Learned A.P.P. for the State has opposed the payer for grant of bail to the petitioner.

Considering the aforementioned facts and circumstances of the case and the fact that the petitioner has clean antecedent, the name of the petitioner has surfaced on the basis of confessional statement of one co-accused, Vikas Kumar Jha, and nothing has been recovered from his conscious possession, the petitioner has been arrested on mere suspicion, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 5th Additional Sessions Judge, Vaishali at Hajipur, in connection with Hajipur Town P.S. Case No. 1052 of 2019, subject to the following conditions :-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.



(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

The Court below is directed to verify as to whether any other criminal case is pending against the petitioner as stated in paragraph No.3 of the bail application and if it is found that the petitioner is made accused in any other case, the above order shall automatically loose its force.

(Purnendu Singh, J)

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