

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25430 of 2022

Arising Out of PS. Case No.-262 Year-2021 Thana- SIKTI District- Araria

PARWEZ ALAM S/o Gulam Moiduddin Resident of Village- Sikty, Ward No.5, P.S.- Sikty, District- Araria, At present residing at Village- Dainiya Anchal- Koshi, District- Morang, Nepal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. P.N. Shahi, Senior Advocate
Mr. Shivam, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 11-08-2022 Heard Mr. Pushkar Narayan Shahi, learned Senior Counsel for the petitioner and learned Mr. Jitendra Kumar Singh, learned APP, who represent the 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 Sikty P.S. Case No. 262 of 2021 for the offences under Sections 413, 414, 420, 467, 468 and 471 of the Indian Penal Code, Section 3/10 of conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 and Section 3/13 of Foreign Exchange Management Act, 1999.

The prosecution case in, in brief, is that one Janeshwar Singh, Assistant Sub Inspector, posted in 52 Vahini,



C.C. Force, D Samvay submitted a written application at Sikty police station on 30.12.2021 at 00.30 hours stating that;

(i) on 29.12.2021 at 13.05 hours he along with other members of the force proceeded for patrolling. When they reached near pillar no. 160/1 (46), saw one white colour vehicle Registration No. WB66W8144 entering India and having seen the patrolling party, occupants of vehicle tried to escape but were apprehended by patrolling party, who disclosed themselves to be Jitendra Ram and Parwez Alam (petitioner).

(ii) on enquiry and search, Rs. 4500/- was found with Jitendra Ram and Rs. 3,64000/- of Nepali currency and Rs. 25495/- Indian currency were found with Parwez Alam, the petitioner herein.

(iii) One White colour Tata Tiago Registration No. WB66W8144 was also there. On being asked both failed to produce any document with respect to vehicle. On being checked, the chassis number and engine number did not match with the registration number. In the end on being asked both did not give any satisfactory reply.

(iv) After some time, on information, Assistant Commandant and Sri Sandeep Sharma, Commander D Samvay also came and recovered Nepal currency notes Rs. 364000/- and



Indian currency notes Rs. 29995/- and white colour Tata Tiago vehicle were seized at about 1720 hours. Two witnesses put their signature and thumb impression on seizure list. After completion of necessary works seized Nepali and Indian currency, Tata Tiago vehicle, both the apprehended persons were handed over to Sikty police station, with request for institution of FIR against both persons.

Mr. Sahi, learned Senior Counsel submits that:

(i) the petitioner had no concern with the alleged recovered vehicle and it is not a case that it is a theft or a stolen one and nothing has been recovered from either direct or indirect possession of petitioner;

(ii) the petitioner was not occupying the said vehicle nor he had any connection with the co-accused, Jitendra Ram, who was stranger to him;

(iii) it is not the case of any inducement or having created any forged document or having used any forged document as genuine;

(iv) although, the FIR was registered under Sections 213 and 214 of the Indian Penal Code beside 3/10 of COFEPOSA Act and 3/10 of FEMA Act but later section 410, 467, 468 and 471 of the Indian Penal Code was also added to



make the charges graver.

Mr. Shahi, learned Senior Counsel further submits that across the entire Indo-Nepal border, every shopkeepers on the both sides of the border accept Indian/Nepali currency and the petitioner being a businessman naturally in course of purchase/sale of articles was carrying both the Indian and the Nepali currencies and he has reiterated that it is not the case of the prosecution that the same was alleged to have been stolen or snatched one or had wrongly possessed the said currency. He lastly submits that for the said alleged allegation, the petitioner is in jail since 30.12.2021 (as stated in paragraph-26 of the bail application) despite the fact that he has no criminal antecedent.

Taking into account the aforesaid facts as also that the charge sheet stands submitted, the petitioner is in custody since 30.12.2021 and has no criminal antecedent, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Araria in connection with Sikty P.S. Case No. 262 of 2021, subject to the following conditions.

- (i) both the bailors should be locals of



Araria, who shall provide official document in support of 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 reasons will entail his cancellation of
bail by the Trial Court itself.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

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