

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34260 of 2021

Arising Out of PS. Case No.-407 Year-2019 Thana- RAJAON District- Banka

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SURAJ KUMAR SHARMA Son of Sri Rajesh Mishry Resident of Village -
Chandan, P.S.- Chandan, Dist.- Banka.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Mukherjee, Advocate

For the Opposite Party/s : Ms. Anita Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 13-04-2022 Heard the learned counsel for the petitioner and the

learned APP for the State.

The petitioner seeks regular bail in connection
with Rajoun PS case no. 407 of 2019 instituted for the offences
punishable under Sections 394, 302 of Indian Penal Code and
Section 27 of Arms Act.

This Court, vide order dated 03.03.2022, had
issued notice to the Superintendent of Police, Banka, pursuant
whereof, a show cause was filed by the Superintendent of
Police, Banka and then the needful has been done, inasmuch as
the Test Identification Parade had been conducted, however the
informant has not been able to identify the petitioner, who is not
named in the F.I.R.

The case of the prosecution is that on the



alleged date and time of occurrence, the informant and one other person (deceased) were coming from Bank after withdrawing a sum of Rs. 5,40,000/- and on the way, they were intercepted by unknown miscreants who had resorted to firing and had also snatched the money bag and mobile phone of the informant. It is also alleged that during the course of said incident, the colleague of the informant had died on account of receiving gun shot injury.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is languishing in custody since 12.12.2020. The learned counsel for the petitioner has further submitted that the petitioner is an accused in one other case but he has already been granted bail in the said case. It is the contention of the learned counsel for the petitioner that the petitioner was arrested in one other case and then, he has been remanded in the present case, however there is no material on record to substantiate his participation in the alleged crime. It is also submitted that the petitioner has not been recognized by the informant to be one of the miscreants who had committed the alleged offence, as such, the petitioner should be granted the privilege of bail.



Per contra, the learned A.P.P. for the State, by referring to the case diary, has submitted that in the C.C.T.V. footage, one co-accused person namely Nizamul Ansari @ Tiger has been identified, however as far as the petitioner is concerned, there is no reference in the case diary of him being seen in the C.C.T.V. footage. It is also submitted that admittedly, now the Test Identification Parade report is on record, in which the informant has not be able to recognize the petitioner as one of the perpetrators of crime.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the fact that neither, the petitioner has been identified by the informant to be one of the miscreants who had committed the alleged occurrence nor any looted cash amount has been recovered from the conscious possession of the petitioner, apart from the fact that the aforesaid Nizamul Ansari has already been granted bail by a co-ordinate Bench of this Court vide order dated 08.02.2022, passed in Cr. Misc. no. 18676 of 2021, I deem it fit and proper to admit the petitioner to the privilege of bail.

Accordingly, the abovenamed petitioner is directed to



be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Judicial Magistrate 1st class, Banka in connection with Rajoun PS case no. 407 of 2019.

(Mohit Kumar Shah, J)

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