

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40701 of 2021

Arising Out of PS. Case No.-96 Year-2021 Thana- BETTIAH CITY District- West
Champaran

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Brij Kumar @ Brij Kumar Chaudhary, aged about 20 years, male, S/o Bikram Chaudhari Resident of Village- Patarkha, P.S.- Manuapul, District- West Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

For the Opposite Party/s : Mr. Tapeshwar Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 31-01-2022 The matter has been listed today for consideration through Video Conferencing.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks bail in Bettiah (Town) PS Case No. 96 of 2021, instituted for the offence under Sections 413,414/34 of the Indian Penal Code and Sections 25(1-b)a/26 of the Arms Act.

Two suspicious persons, as per the prosecution case, were



found on a motorcycle without a number plate. They have been apprehended when they started fleeing. They disclosed their names and from their possession country made pistol and some master key(s) were recovered. They have disclosed the name of the petitioner and two other persons, namely, Mahanth Mahto @ Maahanth Mahat and Suresh Chaudhary and stated that the stolen motorcycles are being sold to these three persons. The petitioner's house has, thereafter, been raided and one hero Honda motorcycle recovered.

Petitioner's counsel has drawn attention of the Court towards the copy of the seizure list and submitted that from the same it is evident that motorcycle was recovered from near his house, specifically behind the house of the petitioner. The same cannot be considered as being in the petitioner's possession as it was not recovered from his house. He submits that implication is based on antecedents of the petitioner in three cases earlier and petitioner is on bail in all the said three cases. Co-accused Mahanth Mahto @ Maahanth Mahato, from whose house, two stolen motorcycle were recovered has been allowed bail in Cr. Misc. No. 39213 of 2021. The petitioner is stated to be in custody since 11.02.2021.

The learned APP representing the State has opposed the



prayer for bail. It is submitted that based on disclosure made by the co-accused stolen motorcycles were recovered from the petitioner's house. This Court, considering the rival submissions and having seen the copy of the seizure list, would find that the same records the recovery of the motorcycle from behind the petitioner's house. Copy of order passed in Cr. Misc. No. 39213 of 2021 in the case of Mahanth Mahto @ Maahanth Mahato is evidence of the fact that he has been allowed bail. From perusal of the order, it appears that two stolen motorcycles were recovered from the house of the said co-accused. The petitioner's claim for bail, in the opinion of the this Court, stands on a better footing than that of co-accused Mahanth Mahto @ Maahanth Mahato.

In the facts and circumstances of the case, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner, above named, 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 the learned Chief Judicial Magistrate Bettiah, West Champaran, in connection with Bettiah (Town) PS Case No. 96 of 2021, subject to the following conditions:-



(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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