

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27728 of 2022**

Arising Out of PS. Case No.-119 Year-2021 Thana- HATHAURI District- Muzaffarpur

KUNDAN KUMAR SON OF RAM NARESH SINGH R/O VILLAGE-
NARMA, P.- HATHAURI, DISTRICT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate

For the Opposite Party/s : Mr. Raj Kishore Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER**

3 02-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing in view of the
COVID 19.

In this case, on 21.07.2022 following order was
passed.

*“Heard learned counsel for the
parties.*

*The petitioner is in judicial
custody in connection with Hathauri P.S.
Case No. 119/2021 (G.R. NO. 1908/2021)
instituted under Sections 394 of the Indian
Penal Code.*

*For the proper appreciation of the
case, let a legible copy of the case diary as
also criminal antecedent report of the
petitioner be called for from the court of*



*learned Judicial Magistrate, 1st Class,
Muzuffarpur (East) in connection with
Hathauri P.S. Case No.119/2021 (G.R. No.
1908/2021)*

Put up in due course.”

Subsequently, as per the office report, the case diary has been received but the criminal antecedent report is missing. Going through Flag-A, it is letter no. 220 dated 03.08.2022 sent by the Judicial Magistrate, 1st Class-cum-A.M,3rd, Muzaffarpur (East) to the Assistant Registrar, Patna High Court, Patna. The same read as follows :-

Letter No. 220

*“From Tejaswini Jaiswal
J.M. 1st Class-cum A.M. 3rd
Muzaffarpur (East*

*To,
Assistant Registrar
Hon’ble High Court
Patna*

Date 03.08.2022

*Subject :- Legible photocopy of case diary in
Hathauri P.S. Case No. 119 of 2021, for reference in Criminal
Misc. No. 27728 of 2022.*

Sir,

*As per order dated 21.07.2022 I am sending the
photocopy of case diary in connection with Hathauri P.S. Case*



No. 119/2021, GR-1908/21 for reference in Criminal Misc. NO. 27728 of 2022. Since criminal antecedent of the accused has not been submitted by the concerned P.S. once the criminal antecedent is submitted by the concerned P.S. that report will be sent to the Hon'ble Court at once.

This is for your kind information.

Your's faithfully

J.M. 1st Muzaffarpur (East)''

It shows how casually the learned Judicial Magistrate has treated the order of the Patna High Court in not providing the criminal antecedent report. There is nothing on record to show that any letter was issued by her office to the office of the Senior Superintendent of Police, Muzaffarpur to provide criminal antecedent report.

The Judicial Magistrate, 1st Class-cum- A.M. 3rd, Muzaffarpur (East) is directed to submit a show cause on the above act of her.

Heard learned counsel for the petitioner and learned counsel for 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 Hathauri P.S. Case No. 119 of 2021 (G.R. No. 1908/2021) for the offences under Section 394 of the Indian Penal Code.



As per the allegation in the FIR, the informant has alleged that while he was returning from his in-laws house and was on NH-77, three unknown accused persons intercepted him and after abusing him, tried to snatch his motorcycle. Upon his protest, it is alleged that one of them assaulted him with butt of the pistol injuring his right hand. Later, they decamped with his motorcycle, mobile as also the relevant documents. Accordingly, the present FIR came to be lodged.

In course of investigation, the name of the accused persons came up including the petitioner and accordingly, he came into judicial custody since 22.12.2021 (as stated in paragraph-13 of the bail application).

Learned counsel for the petitioner submits that he is victim of circumstance inasmuch as only because criminal cases have been lodged against him, he has been made accused in this case. He lastly submits that one of the co-accused namely, Navin Kumar has since been granted bail vide order dated 23.08.2022 vide passed in Cr.Misc. No. 16249 of 2022.

Learned APP for the State opposes the bail but concedes that co-accused has since been granted bail.

Taking into account the aforesaid facts that the petitioner is in custody since 22.12.2021, charge sheet stands



submitted and one of the similarly placed accused has since been released on bail, this Court is inclined to grant him the privilege of bail. However, in view of the fact that he has criminal antecedent, strict conditions need to be imposed.

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 Judicial Magistrate 1st Class, Muzaffarpur (East) in connection with Hathauri P.S. Case No. 119 of 2021, subject to the following conditions.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show 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;

(iii) he shall appear before the concerned police station every months for next one year to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is



allowed.

Let a copy of this order be sent to the learned District
Magistrate, Muzaffarpur for his kind perusal and necessary
action.

(Rajiv Roy, J)

Jagdish/Neha-

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