

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32076 of 2022

Arising Out of PS. Case No.-11 Year-2021 Thana- DAUDPUR District- Saran

IRSHAD ALAM @ MITHU MIYA Son of Late Saheb Hussain Resident of
Village - Kadipur Tola Nabiganj, P.S.- Khaira, District - Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rananjay Kumar

For the Opposite Party/s : Mr.Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 29-08-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within one

month.

Learned counsel for the petitioner submits that he has filed
supplementary affidavit on line and hard copy of the same is being
filed in the court. Let it be kept on record.

Petitioner seeks regular bail in a case registered for the
offence punishable under Section 392 of the Indian Penal Code.

As per allegation, on the alleged date while the informant
being Relationship officer of Bandhan Bank was returning from his
motorcycle to his branch after collecting loan, in the way, three
motorcycle borne miscreants intercepted him and kicked over his
motorcycle and looted Rs 58325/ from the dicky of his motorcycle,
mobile phone and his belongings on the point of gun.

The main submissions advanced by Sri Ranjay Kumar, the



learned counsel appearing for the petitioner are that the petitioner has been languishing in jail since 30.7.2021, no incriminating article has been recovered from his possession, petitioner's name surfaced in the confessional statement of co-accused Priyanshu Kumar Singh which has got no evidenciary value in the eye of law, the police did not put the petitioner in test identification parade while informant has claimed to identify the accused persons on seeing them, after investigation, the police has submitted charge sheet against the petitioner.

Sri Pramod Kumar Pandey, learned APP appearing for the State has opposed the prayer for bail.

Heard both sides and perused the FIR as well as order of the learned court below. The present case relates to loot which was committed by the accused persons from the informant and Rs 58325/- kept in the informant's motorcycle dicky was looted by the accused persons on gun point and some documents and mobile phone were also looted. Though the allegation appears to be serious from the FIR but petitioner's plea that after his arrest, the police did not put the petitioner in test identification parade while informant has claimed to identify the accused persons on seeing them. Petitioner has also taken the plea that after his arrest, nothing incriminating material or looted article was recovered from his possession and the said pleas have not been refuted by learned APP and the order of the learned court below also goes to show that while charge sheeting the



petitioner, the police mainly relied on the statement of co-accused Priyanshu Kumar Singh and his criminal antecedent.

Considering these facts and custody period of the petitioner, in the opinion of this court, a lenient approach can be taken in respect of the petitioner. Let the petitioner 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 Chief Judicial Magistrate, Saran at Chapra in Daudpur P.S Case No. 11 of 2021 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

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

(3) One of the bailers shall be close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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