

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41045 of 2021

Arising Out of PS. Case No.-120 Year-2021 Thana- BARH District- Patna

Binod Yadav @ Binod Kumar S/O Ramchandra Yadav R/O Village-
Hasanchak, P.S-Barh, District-Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. N.K. Agrawal, Sr. Advocate
	Mr. Manoj Kumar Pandey, Advocate
For the Opposite Party/s :	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 09-03-2022 Heard Mr. N.K. Agrawal, learned Senior Counsel for
the petitioner and Mr. Akhileshwar Dayal, learned APP for the
State.

While considering the prayer for bail of the petitioner,
this Court in its order dated 14.02.2022 has recorded as under:-

“Learned counsel for the petitioner undertakes to
remove the defects as pointed out by the Stamp Reporter
within four weeks after start of normal functioning of this
Court.

Heard Mr. N.K. Agrawal, learned Senior Counsel for
the petitioner assisted by Mr. Manoj Kumar Pandey, learned
Advocate for the petitioner and Mr. Akhileshwar Dayal,
learned APP for the State.

The petitioner in the present is seeking regular bail
in connection with Barh P.S. Case No. 120 of 2021
registered for the offences punishable under Sections



188/379/414 of the Indian Penal Code.

Learned Senior Counsel for the petitioner submits that the petitioner has got criminal antecedent of ten cases out of which in two cases, he has been acquitted whereas in other eight cases, he is on bail.

It is submitted that so far as the present case is concerned, it has been lodged against the petitioner on 20.03.2021 alleging that in course of inspection of the jail premises on 06.03.2021 a SIM less mobile phone has been recovered from the possession of the petitioner.

Learned Senior Counsel submits that the mobile recovered from the petitioner was not operating because there was no SIM inside the mobile phone.

Mr. Akhileshwar Dayal, learned A.P.P. for the State has, however, opposed the prayer for bail of the petitioner. It is submitted that on perusal of paragraph '3' it would appear that the petitioner has got huge criminal antecedents, he has still got several cases under the Arms Act and Section 364A/120B of the Indian Penal Code and the cases are pending over two decades. It is his submission that the fact that a mobile phone has been recovered from his possession inside the jail is sufficient to indicate that he has got influence over the Police authorities and so far as case diary is concerned, it is not at all indicating whether the said mobile phone was operating SIM less by way of e-SIM.

Submission is that now-a-days even SIM less mobile



phones are operating through webs connection and it is quite possible that a mobile phone though SIM less may be working, therefore, a complete report in this regard is required to be obtained.

This Court finds that although the present case has been registered under Sections 379 and 414 of the Indian Penal Code and the simple submission of learned Senior Counsel for the petitioner is that both the provisions are not attracted, this Court having noticed the huge criminal antecedents of the petitioner in the present case would like to satisfy itself from the Investigating Officer and the supervising authority at the highest level as regards the mobile phone which was found in possession of the petitioner whether the same was working and mobile calls were being made using the said mobile from inside the jail.

Let a comprehensive report in this regard be obtained from the Senior Superintendent of Police, Patna within two weeks from today.

List this case on 9th of March, 2022.

A copy of this order be communicated to the Senior Superintendent of Police, Patna through Fax forthwith.”

Pursuant to the aforesaid order, a report has been received from the office of the Senior Superintendent of Police, Patna as contained in Letter No. 554/Legal Cell dated 5th March, 2022. According to this report, the mobile allegedly recovered in



course of jail inspection was a SIM less mobile but there was no evidence nor there was any privilege inside the jail to operate the SIM less mobile. It is categorically submitted that the mobile set seized was not capable to work without SIM and the same was not operational on the date of recovery.

Learned Senior Counsel for the petitioner submits that in the order dated 14.02.2022, it is recorded that the petitioner is on bail in 8 cases but that seems to be an inadvertent mistake inasmuch as the fact is that the petitioner is on bail in 7 cases only. He is not on bail in one of the cases stated in paragraph '3'.

Mr. Akhileshwar Dayal, learned APP for the State has though opposed the prayer for bail of the petitioner but the solitary contention is that the petitioner has got criminal antecedents, therefore, he does not deserve privilege of bail.

Having regard to the submissions and the materials placed before this Court and upon finding that so far as the present case is concerned, it has been registered under Section 188/379 and 414 IPC only, the report referred above clearly demonstrate that the mobile was not working and there is no evidence of operation of the said mobile inside the jail and further that the petitioner has remained in custody in connection with this case since 31.03.2021, so far as the investigation in this



case is concerned, it is complete, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Barh, District-Patna in connection with Barh P.S. Case No. 120 of 2021, subject to the condition as laid down under Section 437(3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

