

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30721 of 2022

Arising Out of PS. Case No.-126 Year-2021 Thana- SONPUR RAIL P.S. District- Saran

RAUSHAN KUMAR @ GORKA S/o Vijay Sah R/o Vill- Ramashish Chowk
under bridge, Jhoparpatee, P.S.- Sadar, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Pranav Kumar
		Mr.Rajeev Ranjan No.II
For the Opposite Party/s	:	Mr.Kanhaiya Kishore (APP. 100)

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 24-08-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in a case registered for the offence punishable under Section 379 of the Indian Penal Code.

As per prosecution story on the alleged date and time of occurrence, victim was travelling by a train, during that course two persons tried to snatch her mobile phone which was objected by the victim and in course of resistance she fell down from the train and sustained serious injury and became unconscious.

The main submissions advanced by Sri Pranav Kumar, the learned counsel appearing for the petitioner are that against petitioner there is criminal antecedent of two cases in which he is on bail, after



alleged occurrence police failed to recover stolen mobile phone from the possession of this petitioner, as per prosecution, petitioner was identified by the victim on the basis of photograph of the petitioner sent by the Investigating Officer through her whatsapp but after the said identification, petitioner was not put on test identification parade and the method adopted by the police for identification of the petitioner/accused was not in accordance with law. Further submission is that the petitioner has been languishing in jail since 15.12.2021, he has been charge sheeted and his case is at initial stage of trial.

Sri Kanhaiya Kishore, learned APP appearing for the State has opposed the prayer for bail and submitted that the petitioner was identified by the victim by seeing his photograph which was sent to her through whatsapp and the petitioner has got criminal antecedent of similar nature of case.

Considering the above submissions and taking into account the fact that method adopted by the police with regard to the identification of petitioner was not proper and moreover, after identification of the petitioner by the victim, the police failed to recover looted mobile phone from the possession of the petitioner and also considering petitioner's custody period, 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 Railways Judicial Magistrate, Sonpur, Saran
in Sonpur (Hajipur) Rail P.S Case No. 126 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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