

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42021 of 2021

Arising Out of PS. Case No.-21 Year-2021 Thana- ASHTHAWAN District- Nalanda

VIJAY PASWAN @ DHARU, son of Lakshmi Paswan, Resident of village-
Uternama, P.S.-Rahui, District-Nalanda.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

.. ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 22-08-2022 Learned counsel for the petitioner is permitted to make
necessary correction in prayer portion of the bail petition.

Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

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

The petitioner seeks bail in connection with Asthawan
P.S. Case No. 21/2021 registered for the offences punishable under
Sections 457, 392 of the Indian Penal Code.

As per prosecution case, the informant and his family
members were sleeping in their rooms in the meantime, some
unknown persons entered in the house of informant. It is alleged
that the said miscreants threatened the informant and his family
members and took out Rs.20,000/- from the box of the informant
and Rs.25,000/- from his brother, Jitendra Kumar alongwith
golden and silver ornaments from their houses.



Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR and the name of petitioner has surfaced in this case during course of investigation on the basis of his confessional statement as well as whispering. During course of investigation as mentioned in para 11 of the case diary, no any incriminating article has been recovered from the possession of the petitioner. Learned counsel for the petitioner further submits that except confessional statement, there is no cogent evidence on record to demonstrate the present petitioner with the alleged occurrence. The petitioner is languishing in custody since 24.02.2021 and bears criminal antecedent of 05 cases more or less of similar nature in which he is on bail. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner and submits that the petitioner is a habitual offender.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the



material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Nalanda at Biharsharif / concerned court in connection with Asthawan P.S. Case No. 21/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.



(v) Petitioner shall not live the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(Alok Kumar Pandey, J)

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