

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45150 of 2021

Arising Out of PS. Case No.-40 Year-2021 Thana- BASOPATTI District- Madhubani

MD. ARSHAD, Son of Md. Israil, R/o Village- Bhelwa tola, Ward No. - 15,
P.S.- Jaynagar, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhavesh Kumar Sah, Adv.

For the Opposite Party/s : Mr.Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-02-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Abhay Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Basopatti P.S. Case No.40 of 2021 registered for the offences punishable under Section 392 of the Indian Penal Code. He is in custody since 15.02.2021. The petitioner has got no criminal antecedent.

Learned counsel for the petitioner submits that the FIR has been lodged against unknown. Allegation is that the miscreants, who entered inside the house of the informant, had looted away a sum of Rs.7 lakhs and one mobile containing a sim.

Learned counsel submits that the alleged occurrence is



said to have been taken place on 10.02.2021 at about 8.45 pm. The informant reached at his house on information received from his wife and came to know about the alleged occurrence which took place in his house but the FIR in this case has been lodged on the subsequent day at 6.00 pm, therefore, there is a delay of about 21 hours in lodging of the FIR.

Learned counsel further submits that in course of investigation recoveries were made from the house of co-accused Vinod Yadav. The said Vinod Yadav has allegedly confessed and took the name of this petitioner, but from possession of the petitioner, no recovery has been made.

It is further submitted that the petitioner is in custody for more than one year, but till date, no test identification parade has been conducted and petitioner has not been identified by the wife or children of the informant. It is submitted that the co-accused Jitendra Thakur has been granted bail by this Court in Cr.Misc.No.42333 of 2021.

Learned APP for the State is present and has opposed the prayer for regular bail of the petitioner.

Having regard to the submission that the petitioner is not named in the FIR, his name has transpired in the confessional statement of the co-accused Vinod Yadav, no incriminating article has been recovered from the possession of the petitioner, he has



not been put on TIP and further he has no criminal antecedent and is in custody since 15.02.2021, investigation against him is complete and the co-accused Jitendra Thakur has been granted bail by this Court in Cr.Misc.No.42333 of 2021, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of Sri R.K. Chhapolia, learned Judicial Magistrate-1st Class, Madhubani in connection with Basopatti P.S. Case No.40 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 step 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.

(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'.

