

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38320 of 2022

Arising Out of PS. Case No.-3 Year-2022 Thana- BATHNAHA District- Sitamarhi

Kamlesh Giri, Son of Baiju Giri, Resident of village- Bhup Bhairo Khap Tole,
Police Station and District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 10-10-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bathanaha P.S. Case No. 03 of 2022 registered for the offences punishable under Sections 399, 402, 414, 216(A)/34 of the Indian Penal Code and Sections 25(1-b)(a), 26/35 of the Arms Act.

As per the prosecution case, it is alleged that the police on a confidential information with regard to the assemblage of some miscreants rushed to the place of occurrence and apprehended eight persons, including the



petitioner. On search, one loaded country made pistol was recovered from the possession of this petitioner. It is also alleged that on the disclosure made by the accused persons, including the petitioner, certain other incriminating articles, which are said to be stolen one have been recovered.

Learned counsel appearing on behalf of the petitioner submits that in fact nothing has been recovered from the person or possession of the petitioner, however, only he being apprehended at the place of occurrence and only on account of his past criminal antecedent his name has been implicated in this case, showing the recovery from his possession. He further submits that so far other accused persons are concerned who were also apprehended at the place of occurrence and no recovery was made but they have also been named in the FIR showing the highhandedness of the police. He next submits that the petitioner is in custody since 09.01.2022 and the investigation of the crime is already complete and charge-sheet has been submitted and he is ready to give undertaking that he will fully co-operate in the trial.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner along with other accused persons are member of a



gang, who are found involved in theft and loot of valuables. It is also submitted that the petitioner also found involved in three other criminal cases.

Regard being had to the submissions made on behalf of the parties and considering the period of incarceration, apart from the fact that the investigation of the crime is already complete and charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Bathanaha P.S. Case No. 03 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be



cancelled. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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