

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39076 of 2022**

Arising Out of PS. Case No.-255 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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RAKESH KUMAR @ RAKKA SON OF BINOD YADAV R/O VILLAGE-
SHIVPURI COLONY, CHOTI RAILWAY COLONY LINE, P.S.- KOTWALI
(TILKAMANJHI), DISTRICT- BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh

For the Opposite Party/s : Mrs.Renu Kumari

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

2 08-09-2022 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

Kotwali (Tilkamanjhi) P.S. Case No. 255 of 2022 registered for

the offences punishable under Sections 379 and 411 of the

Indian Penal Code.

As per prosecution case, the informant's brother

saw one person committing theft of battery of E-rickshaw and

when he started shouting, the accused person started fleeing but

the accused person was caught who disclosed his name as

Rakesh Kumar @ Rakka (petitioner). It is also alleged that



pliers as well as tester was recovered from possession of petitioner. Thereafter, on arrival of police the petitioner along with seized tools were handed over to police.

Learned counsel for the petitioner submits that petitioner is in custody since 31.03.2022. Petitioner bears criminal antecedent of two cases. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that petitioner has been dragged in this case merely on the basis of suspicion. From the perusal of FIR itself it is evident that date of occurrence is 30.03.2022 but the FIR has been lodged on 31.03.2022 at 5:45 AM which itself creates doubt about the prosecution case. From the perusal of seizure list itself it appears that there is production cum seizure list and hence, no case under Section 379 of the IPC is made out against the petitioner.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the 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 bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Bhagalpur in connection with Kotwali (Tilkamanjhi) P.S. Case No. 255 of 2022, 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.

(Alok Kumar Pandey, J)

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