

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39737 of 2022

Arising Out of PS. Case No.-324 Year-2020 Thana- DUMRAO District- Buxar

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Edani Khan @ Taukir Khan Son of Bhola Khan @ Nasir Khan Resident of
village- Barki Sarimpur, P.S.- Buxar, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Digvijay Kumar Ojha, Advocate
For the Opposite Party/s : Mr.Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 22-11-2022 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 learned
APP for the State.

Petitioner seeks regular bail in connection with
Dumraon P.S. Case No. 324 of 2020 registered for the offences
punishable under Sections 392 of the Indian Penal Code,
however chargesheet has been submitted under Sections 395,
120 (B)/34 of the Indian Penal Code.

As per the prosecution, the informant was looted on a gun-
point by these miscreants while he was on his way to deposit
Rs. 8,75,000/- in the bank. Further it is alleged that the money
belonged to one Santosh Kumar who is the owner of a shop

where the informant was working.

The main submissions advanced by learned counsel Mr. Digvijay Kumar Ojha, appearing for the petitioner are that the petitioner's name has been dragged in the instant matter merely on the basis of confessional statement of co-accused and except this there is nothing against him and against the petitioner there are five criminal cases as his criminal antecedent but the petitioner was made accused in the said cases without any legal material and the police got him remanded in these cases one by one after his arrest.

Learned APP Mr. Dashrath Mehta, appearing for the State has opposed the prayer for bail.

Heard both the sides and perused the FIR and the order impugned. The instant matter relates to *Dacoity* committed by unknown persons as per the FIR, the order of learned Court below goes to show that the petitioner was remanded in the instant matter from an other P.S. Case and during the course of argument learned counsel for the petitioner has taken the defence that only on the basis of confessional statement of co-accused the petitioner has been made accused in the instant case and except the said statement there is no any other material against him and the said defence has not been

refuted by learned APP appearing for the State and he accepted that the petitioner's name surfaced merely on the basis of confessional statement of co-accused, the order of Court below goes to show that the investigation has been completed against the petitioner and the cognizance of the alleged offence has already been taken by the court below and petitioner's case is at initial stage. Considering these facts and mainly taking into account the petitioner's defence as discussed above and his custody period, in the opinion of this Court the petitioner deserves to a lenient approach of this Court. Accordingly, let the petitioner be enlarged 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 Court concerned in connection with Dumraon P.S. Case No. 324 of 2020 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 a close relative of the
petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J.)

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