

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40901 of 2022

Arising Out of PS. Case No.-29 Year-2020 Thana- DUMARIAGHAT District- East
Champaran

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Pawan Sahani S/O Ram Pravesh Sahani @ Rampravesh Sahni R/O Village-
Banparua, P.S.- Dumariyaghat, District- East Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 14-10-2022 The case is heard through video conferencing.

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 the
learned APP for the State.

Petitioner seeks regular bail in connection with
Dumariyaghat P.S. Case No.29 of 2020 registered for the
offence punishable under Section 392 of the Indian Penal Code.

As per the allegation, on the alleged date and time of
occurrence the informant was returning on a motorcycle with
his relative and on the way three miscreants riding on a
motorcycle forcefully stopped him and looted his motorcycle on



a point of gun and the informant claimed in the FIR that he would identify the accused persons.

The main submissions advanced by learned counsel Mr. Abhishek Kumar appearing for the petitioner are that the petitioner is not named in the FIR, his name surfaced in the confessional statements of co-accused persons namely Sonelal Kumar @ Sonelal Kumar Yadav and Nitesh Kumar given before the police and except the said statement there is no material against him to connect him to the alleged crime, after the arrest the petitioner was not put on Test Identification Parade and the police failed to recover any incriminating material including the looted motorcycle from the possession of the petitioner. Further submission is that the co-accused namely Sonelal Kumar who revealed the role of this petitioner in the alleged crime before the police has been granted bail by a Co-ordinate Bench of this Court vide order passed in Cr. Misc No.9344 of 2021 and the said co-accused has criminal antecedents of five cases and the petitioner has criminal antecedents of two cases in which he is on bail and he has been languishing in jail since 23.03.2022.

Learned APP Mr. Pramod Kr. Pandey appearing for the State has opposed the bail prayer.

Heard both sides and perused the FIR and the order



impugned. The present matter relates to an incident of loot and allegedly the informant's motorcycle was looted by the three accused persons and the FIR was lodged against unknown persons and the informant claimed in the FIR to be able to identify the accused persons. The petitioner has taken the plea that after his arrest he was not put on Test Identification Parade and his name has surfaced in the confessional statement of co-accused persons namely Sonelal Kumar and Nitesh Kumar and the said Sonelal Kumar has been granted bail by a Co-ordinate Bench of this Court vide order passed in the above-mentioned Cr. Misc. case. In the light of the said defense taken by the petitioner, I have perused the order impugned which shows that the learned Court below has mainly placed reliance upon the statement of said co-accused persons in respect of the involvement of the petitioner in the alleged crime while rejecting the prayer of the petitioner. Though the petitioner has criminal antecedents of two cases but according to him he has been granted bail in the said cases and the order of learned Court below does not show recovery of any incriminating material including the looted article from the possession of this petitioner after his arrest. Moreover, the co-accused Sonelal Kumar who revealed the role of this petitioner in the alleged



crime has been considered for bail and the petitioner has been languishing in jail since 23.03.2022. Considering these facts as well as the petitioner's custody period in the opinion of this Court a lenient approach can be taken in respect of petitioner's prayer, let the petitioner be released 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 concerned Court in connection with Dumariyaghat P.S. Case No. 29 of 2020.

(Shailendra Singh, J.)

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