

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53908 of 2021

Arising Out of PS. Case No.-199 Year-2021 Thana- MOHANIYA District- Kaimur (Bhabua)

Abhishek Tiwary, Son of Late Arvind Tiwary, Resident of Village- Dadar,
P.S.- Mohania, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Pandey, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 20-04-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Mohania P.S. Case No. 199 of 2021 for the offences punishable under Sections 399, 409, 414/34 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 on secret information, a raid was conducted by the police team and five miscreants were apprehended, while they were trying to escape from the place of occurrence. It is further alleged that on search



one country made pistol along with live cartridge and mobile phone have been recovered from the possession of this petitioner.

It is submitted on behalf of learned counsel for the petitioner that the no such occurrence has taken place and he has categorically stated in para. 6, 7 and 8 of the petition that the petitioner was not arrested on 29.05.2021, rather he himself went to Mohania police station, as he was called by the S.H.O. of Mohania police station to meet him, which fact can also be verified from the CCTV camera installed at Mohania police station and thereafter he kept in confinement for four days and lastly his name has been implicated in this case. It is further submitted that other similarly situated persons, namely, Divyanshu Kumar and Aman Kumar Singh, who were said to be arrested at the place of occurrence, have already been granted bail by a coordinate Bench of this Court in Cr. Misc. No. 45706 of 2021 vide order dated 21.03.2022 and in Cr. Misc. No. 48051 of 2021 vide order dated 23.03.2022 respectively, copies of which have been produced by the learned counsel for the petitioner and the same have been kept on record. It is next submitted that the petitioner is in custody since 30.05.2021 and moreover, the investigation has been concluded and charge-



sheet has also been submitted in the present case. It is lastly submitted that the name of the petitioner has been implicated in other two cases also, which were instituted against unknown persons, however, in both the cases, the petitioner has been granted bail by the court below itself.

On the other hand, learned counsel for the State opposes the bail application of the petitioner and submits that the petitioner is named in the F.I.R. and recovery has been made.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that though the petitioner is named in the F.I.R., but it appears that there is some high handedness of the police, apart from the fact that other co-accused persons have already been granted bail by a coordinate Bench of this Court and the petitioner is in custody since 30.05.2021 and moreover the investigation has been concluded and charge-sheet has also 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, Bhabua in connection with Mohania P.S. Case No. 199 of 2021 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.

(Harish Kumar, J)

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