

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53353 of 2021**

Arising Out of PS. Case No.-88 Year-2019 Thana- RUNISAIDPUR District- Sitamarhi

Rakesh Rai, Son of Jata Shanker Rai, Resident of Village- Batraluli, P.S.-
Mahindwara, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate

For the Opposite Party/s : Mr. Anant Kumar 1, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

3 23-08-2022 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. Ashhar Mustafa, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Runnisaidpur P.S. Case No. 88 of 2019 registered, for the offence punishable under Section 397 of the Indian Penal Code.

As per prosecution case, it is alleged that on 04.03.2019, at around 6.30 P.M., five miscreants entered into the Patrol Pump, namely, M/s D.P. Service Station, Garha on two Apache motorcycles. It is further alleged that all of them were covered their faces by Gamchha and Helmet and on the point of



pistol, they looted Rs.1,86,549/-. It is also alleged that the miscreants also fired upon the employees of the Patrol Pump, however, none has received any injury.

Learned counsel appearing on behalf of the petitioner submits that admittedly it is evident that all the miscreants were covered their faces and as such F.I.R. has been instituted against five unknown miscreants, however, during the course of investigation, the name of the petitioner has transpired on the disclosure made by some unknown spy. It is also submitted that the unknown spy disclosed that they have heard the name of the petitioner and others while others were talking with each other with regard to their complicity in the present crime. It is next submitted that later on in para. 70 and 71 of the case diary two persons were also introduced as chance witnesses and they claimed that while they were crossing the Patrol pump, they saw the occurrence and also claimed to identify the petitioner and others. It is next submitted that save and except the disclosure made by the spy and the statement of the chance witnesses, there is no material, which suggests the complicity of the petitioner, inasmuch as neither the petitioner has been put on TIP nor any incriminating material has been recovered from the possession of this petitioner. It is also submitted that the



petitioner was remanded in connection with Mahindwara P.S. Case No. 06 of 2019 and thereafter his statement was recorded and he has been remanded in the present case on 31.12.2019 and since then he is in custody. It is lastly submitted that one of the co-accused, namely, Monu Kapar @ Manish Kumar @ Monu, having identical allegation, has already been granted bail by the learned coordinate Bench of this Court in Cr. Misc. No. 13219 of 2020 vide order dated 02.03.2020.

On the other hand learned APP for the State vehemently opposes the bail application and submits that petitioner was identified by the witnesses, whose statements have been recorded in para. 70 and 71 of the case diary, apart from the fact that the petitioner has multiple criminal antecedent.

In response to the aforesaid submissions, learned counsel for the petitioner submits that now the petitioner is on bail in all the cases, as has been mentioned in para.3 of this application, and with respect to the statements of the witnesses made in para 70 and 71 of the case diary are concerned, he has drawn the attention of this Court that the witnesses themselves stated that all the accused persons were covered their faces.

Having regard to the submissions made on behalf of



the parties and considering the fact that save and except the disclosure made by the spy and statements of chance witnesses, who have also stated that the accused persons were covered their faces and the fact that co-accused has already been granted bail by a learned coordinate Bench of this Court, 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 Runnisaipur P.S. Case No. 88 of 2019, 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.

(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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