

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54734 of 2021

Arising Out of PS. Case No.-199 Year-2021 Thana- RAJIVNAGAR District- Patna

RAHUL KUMAR S/o- Dwarika Prasad @ Dwarika Mahto At present R/o- Sabji Mandi Shastrinagar, Near L.B.W. Hotel, P.S.- Sastrinagar, District- Patna. Permanent R/o - Near Shiv Mandir, Shekhpura, P.S.- Mahnar, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nityanand Kumar, Adv.

For the Opposite Party/s : Mr. A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 22-01-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State through video conferencing.

The petitioner seeks bail in connection with Rajiv Nagar P.S. Case No. 199 of 2021 registered for the offence under Sections 420 and 188 of the Indian Penal Code, Section 7 of the E.C. Act, Rule 3 of Oxygen Cylinder Rules, 2016, Section 9B of the Explosives Act and Section 3 of the Pandemic Act.

The case relates to black marketing of oxygen cylinders during the pandemic days in the city.

Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in



this case. In fact, nothing incriminating has been recovered from the conscious possession of the petitioner. He further submits that it is apparent from the F.I.R. itself that the co-accused, Harsh Raj and Sanjiv are the mastermind of the entire affairs of black marketing of alleged Oxygen cylinders. The role of this petitioner is confined to the extent that he being the E-Rikshaw puller has carried the cylinder in question to one place to another place as per the negotiation of his passenger. Neither the petitioner has any concern with any of the co-accused involved in the alleged occurrence nor he has negotiated or received any money for the alleged cylinders from anyone. Therefore, no case under Section 7 of the Essential Commodities Act is made out against the petitioner. Moreover, the co-accused, Chandan Kumar having more or less similar allegation has already been granted bail by a co-ordinate Bench of this Court vide order dated 18.11.2021 passed in Cr. Misc. No. 47040 of 2021 and the co-accused, Shibbu Kumar has also been granted bail by this Court vide order dated 07.01.2022 passed in Cr. Misc. No. 53028 of 2021. The petitioner, who is of clean antecedent, is rotting in judicial custody since 11.05.2021.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner..

Considering the facts and circumstances of the case, let the, above named, 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 learned S.D.J.M., Patna in connection with Rajiv Nagar P.S. Case No. 199 of 2021 with 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 and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

And, further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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