

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54640 of 2021

Arising Out of PS. Case No.-260 Year-2020 Thana- BODHGAYA District- Gaya

Vinod Kumar @ Viru Daun @ Binod Kumar Yadav @ Biru Don Son of
Parshuram Yadav @ Late Kesar Yadav Resident of Village - Lahuri, P.S. -
Barrachatti, District - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Kumar, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 18-04-2022 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Bodhgaya P. S. Case No. 260 of 2020
registered for the offences punishable under Section 395 of the
Indian Penal Code.

As per the prosecution case, it is alleged that on
27.02.2021, the informant who was working as Salesman in the
shop of his maternal uncle (*mama*) was going on his motorcycle
along with his Manager, in the meantime, six unknown persons
riding motorcycles started chasing them and intercepted the
informant and his Manager. Thereafter, it is alleged that on the
point of pistol, all the accused persons looted away Rs. 32,000/-
from the informant and Rs. 1,39,000/- from the Manager.

Learned counsel appearing on the behalf of the



petitioner submits that the petitioner is neither named in the F.I.R. nor he was arrested at the spot nor any incriminating material has been recovered from the possession of this petitioner. It is further submitted that the name of the petitioner has come in the confessional statement of co-accused persons, who disclosed that in all the occurrences, the petitioner is mastermind and is operating the gang from Jail. It is further submitted that the petitioner was in jail since 18.01.2020 and the occurrence took place on 27.07.2020. Further there is no recovery of any mobile phone or any other incriminating material, which suggest the involvement of this petitioner in the present case. It is lastly submitted that the accused persons, on whose confession the name of the petitioner has come, has already been granted bail by co-ordinate Bench of this Hon'ble Court in Cr. Misc. No. 43023 of 2021 vide order dated 10.01.2022, copy of which has been produced before this Court and the same is kept on record.

A supplementary affidavit has been filed on behalf of the petitioner bringing on record that the trial has commenced and the informant as well as the Manager have already been examined by the learned trial court, however, both of them have been declared hostile.

On the other hand, learned counsel appearing on



the behalf of the State vehemently opposes the bail application and draws the attention of this Court towards Paragraph No. 65 of the case diary, wherein it has come that this petitioner is found involved in almost 12 cases of similar nature. Though the petitioner is in custody since 18.01.2020 but he is the mastermind, who is operating the gang from jail. In response, learned counsel for the petitioner submits that the petitioner has been granted bail in all the cases. It is also submitted by the learned APP that even during the course of investigation, it transpired that the location of tower of the mobile phone which is said to be used by this petitioner is shown to be near the Shastri Nagar Jail Road and the SIM is found to be in the name of one Manoj Yadav, the brother of the petitioner.

It is submitted by the learned counsel for the petitioner that mere on the basis of the antecedent of the petitioner, it is not proper to deny privilege of bail to the petitioner.

Having considered the submissions made on behalf of the parties and taking into consideration this fact that the petitioner is in custody since 18.01.2020 and moreover, there is no recovery of any mobile phone, which is said to have been used by this petitioner and the other co-accused person on whose confession the name of the petitioner transpired, has



already been granted bail by a Bench of this Hon'ble Court, let this petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 4th, Gaya in connection with Bodhgaya P. S. Case No. 260 of 2020, subject to the condition that one of the bailors will be the close relative 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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