

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44891 of 2022

Arising Out of PS. Case No.-349 Year-2021 Thana- BATHNAHA District- Sitamarhi

KAMLESH GIRI Son of Baiju Giri R/o Village - Bhoop Bhairo, Khap tola,
P.S. and District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha

For the Opposite Party/s : Mr.Pronoti Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 05-12-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
Bathnaha P.S. Case No. 349 of 2021 registered for the offences
punishable under Section 395 of the Indian Penal Code.

As per prosecution case, five miscreants took away
5 tola Gold, 250 gm Silver and Rs. 21,000/- in cash. It is alleged
that one among them was aged about 32-33 years and four
miscreants were aged about 20-25 years.

Learned counsel for the petitioner submits that
petitioner is in custody since 03.03.2022. Petitioner bears criminal
antecedent of five cases. Learned counsel for the petitioner



submits that petitioner is not named in FIR. The name of the present petitioner has been surfaced in this case on the confessional statement of co-accused Ashok Sah. Except the confessional statement of the co-accused, there is nothing on record to demonstrate the complicity of the petitioner with the alleged occurrence. No incriminating article has been recovered from the possession of the petitioner. No TIP has been conducted uptill now. On similar allegation, co-accused Amar Giri has already been granted bail vide Cr. Misc. No. 34500 of 2022 by co-ordinate bench of this court and the case of the present petitioner stands on similar footing.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail by co-ordinate bench of this court, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, after framing of charge, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sitamarhi in connection with Bathnaha P.S. Case No. 349 of 2021, subject to following conditions:-



(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.

(v) Petitioner shall not leave the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(Alok Kumar Pandey, J)

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