

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45301 of 2022

Arising Out of PS. Case No.-161 Year-2021 Thana- GAYA KOTWALI District- Gaya

Prince Khan @ Sadab Khan Son of Naseer Khan R/o Mohalla- Milllat
Colony, P.S- Kotwali, Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Choubey Jawahar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 29-11-2022 The learned counsel for the petitioner is directed
to remove all the defects pointed out by the Stamp Reporter
within one month.

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

Petitioner seeks regular bail in connection with
Kotwali P.S. Case No. 161 of 2021 registered for the offences
punshiable under Sections 457 and 380 of the Indian Penal
Code.

As per the prosecution, the informant received an
information that a gang of thieves stole cash and other valuable
articles by breaking the shutters of the shops.

The main submissions advanced by learned counsel
Mr. Ajay Kumar Sinha appearing for the petitioner are that the



FIR was lodged against unknown persons, the prosecution mainly relied upon a CCTV footage showing the petitioner's presence at that alleged place during the relevant time of the alleged occurrence but neither the said CCTV footage was procured from the concerned camera nor any investigation was made to identify this petitioner from the said footage and in this regard the investigation remains completely vague and uncertain and after the petitioner's arrest in the present matter the police failed to recover any of the looted articles from his possession and similarly situated co-accused person Chhotu Paswan has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. Nos. 54627 of 2021 and co-accused persons Rajesh Pathak and Chhotu @ Md. Gulzar have been granted bail by the Court below and the petitioner has criminal antecedent of one case in which he is on bail and he has been languishing in jail since 11.06.2022 and against him the investigation has been completed.

Learned APP Mr. Choubey Jawahar appearing for the State has opposed the bail prayer.

Heard both the sides and perused the FIR and the order impugned. As per the order impugned, the petitioner was seen at or near the alleged place of occurrence and his activity



was captured in a CCTV camera but the petitioner has taken the defence that in respect of the said footage no investigation was made and even no attempt was made to identify the petitioner on the basis of the said footage and even any of the looted articles was not recovered from the possession of this petitioner after he was taken into custody in the present matter and there is no submission in rebuttal of the said defence by learned APP. Considering above-mentioned facts and submissions and also considering the privilege of bail having been granted to the above-mentioned co-accused persons whose case appear to be similar with the present petitioner, in the opinion of this Court, a lenient approach can be taken in respect of the petitioner's prayer, let the 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 concerned Court in Connection with Kotwali P.S. Case No. 161 of 2021.

(Shailendra Singh, J.)

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