

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45986 of 2022

Arising Out of PS. Case No.-125 Year-2021 Thana- MANIGACHI District- Darbhanga

Lalan Saday Son of Sri Ram Prasad Saday Resident of village - Nehra, P.S. -
Manigachhi, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Anjani Kumar Choudhary, Advocate Mr. Akshansh Ankit, Advocate
For the Opposite Party/s :		Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 08-12-2022 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
Manigachi (Nehra O.P.) P.S. Case No. 125 of 2021 registered
for the offences punishable under Section 379 and later added
Section 411 of the Indian Penal Code.

As per the prosecution, 30-35 bags of *Makhana* worth
of Rs.3,33,000/- were stolen away from the informant's shop by
some unknown persons.

The main submissions advanced by the learned



counsel Mr. Ashok Kumar Choudhary appearing for the petitioner are that the petitioner has fair and clean antecedent and during the course of investigation his name surfaced in the statement of co-accused persons namely Bhagat Saday and Dev Chandra Paswan who were granted bail by the Court below and the petitioner's case is on better footing from them as from his possession any recovery of the stolen articles was not made and one co-accused person namely Mukesh Paswan has been granted anticipatory bail by the Court below while the petitioner's case is on better footing from the said co-accused but ignoring all these facts petitioner was not granted bail which shows that the Court below decided the bail petition of this petitioner and co-accused person in different approach without proper appreciating all the relevant materials and evidences coming against the petitioner and co-accused persons and without differentiating the evidences available in case diary against the petitioner and co-accused persons. Further submission is that the petitioner is a daily wage labourer and he is sole bread earner in his family.

Learned APP Mr. Zainul Abedin appearing for the State has opposed the bail prayer.

Having considered the above submissions and mainly



taking into account the facts that some co-accused persons who are carrying more serious allegation than this petitioner are on bail granted by the Court below itself while the petitioner who has fair and clean antecedent has not been granted bail and as per above submission no recovery of the stolen article was made from his possession and without any legal evidence he is behind the bars so it will be proper to enlarge the petitioner on bail, accordingly, 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 the concerned Court in connection with Manigachi (Nehra O.P.) P.S. Case No. 125 of 2021.

Let a report be called for from the District and Session Judge, Darbhanga to this effect whether the Court concerned which decided the bail prayer of the petitioner/accused Lalan Saday properly differentiated the petitioner's bail prayer from the co-accused persons who were on bail at that time and also find out whether the petitioner's case was not similar or on better footing with the said co-accused persons who were on bail at the time of deciding the bail prayer of the petitioner, and if petitioner's case was similar to the said co-accused persons then what was the reasons before the Court concerned for not



admitting him to bail and also find out whether the order dated 15.07.2022 was passed in mechanical manner or in judicious manner by the Court concerned.

The report as required must be sent before the next date.

Put up this matter on 09th January, 2023.

(Shailendra Singh, J.)

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