

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45675 of 2022

Arising Out of PS. Case No.-18 Year-2022 Thana- MANIGACHI District- Darbhanga

Chandan Kumar Mahto @ Chandan Mahto Son of Shatrudhan Mahto @
Shatruhan Mahto resident of Brahmpur, Police Station- Manigachhi, District -
Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 46312 of 2022

Arising Out of PS. Case No.-18 Year-2022 Thana- MANIGACHI District- Darbhanga

Prince Kumar Paswan Son of Shibu Kumar Paswan @ Shiv Kumar Paswan
Resident of Village - Sahbani Pokhar, Police Station- Sakri, District -
Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 45675 of 2022)

For the Petitioner/s : Mr. Pankaj Kumar Das, Adv.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP.

(In CRIMINAL MISCELLANEOUS No. 46312 of 2022)

For the Petitioner/s : Mr. Pankaj Kumar Das, Adv.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 30-11-2022 Both the criminal miscellaneous petitions have

arisen out of the same police station case number, hence they are

being heard together and disposed of by a common order.

The learned counsel for the petitioners is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioners and the



learned APP for the State.

Petitioners seek regular bail in connection with Manigachi P.S. Case No. 18 of 2022 registered for the offence punishable under Section 392 of the Indian Penal Code.

As per the prosecution, the informant and his father were robbed by three unknown miscreants, who snatched their motorcycle and a cash of Rs. 1,00,000/- kept in a bag.

The main submissions advanced by learned counsel Mr. Pankaj Kumar Das appearing for the petitioners are that the FIR was registered against unknown persons, the petitioner No. 1 Chandan Kumar Mahto @ Chandan Mahto's name came into light in the confessional statement of co-accused Prince Kumar Paswan petitioner No. 2, who was arrested with fire-arms regarding which another P.S. Case was lodged and both the petitioners were remanded in this case from Pandaul P.S. Case No. 55 of 2022 but after their remand in the present case they were not put on Test Identification Parade and no any incriminating material of the alleged loot was recovered from their possession.

Learned APP Mr. Damodar Prasad Tiwary appearing for the State has vehemently opposed the bail prayer and submitted that the Petitioner No. 2 Prince Kumar Paswan was



apprehended with fire-arms regarding which another P.S. Case No.55/2022 at Pandaul P.S. was lodged and during relevant time the petitioner No. 1 and other co-accused persons were in contact regarding which CDR details of their mobile phones was collected by the investigating officer which goes against the petitioners and shows their involvement in the alleged crime of loot and they have criminal antecedents.

Heard both the sides and perused the FIR and order of learned Court below. Admittedly recovery of looted article was not made from the possession of petitioner No. 1 Chandan Kumar Mahto @ Chandan Mahto as appears from the order of learned Court below and there is defence of the petitioner that after his remand he was not put on Test Identification Parade, in rebuttal of the said defence there is no submission by the learned APP. Though as per the order of learned Court below this petitioner was in contact with the co-accused persons at the relevant time of occurrence of the alleged crime of loot but merely the said contact cannot be deemed to be a concrete evidence going against the petitioner No. 1 to show him to be involved in the alleged loot and while rejecting the bail prayer of the petitioner No. 1 the learned Court below mainly relied upon the confessional statement of the petitioner No. 2 as well



as his criminal antecedent. So far as the prayer of Petitioner No. 2 Prince Kumar Paswan is concerned, though as per the order of learned Court below one country-made pistol and live cartridge were alleged to have been recovered from his possession but regarding the said recovery of fire-arms Pandaul P.S. Case No. 55 of 2022 was lodged and the order of Court below does not show that the said recovered fire-arms had a connection to the offence of the alleged loot of the present matter and accordingly against him the main evidence upon which the prosecution has placed reliance are the confessional statement of the petitioner No. 2 and petitioner's contact with other co-accused persons through mobile phone at the relevant time but these evidences or circumstances cannot be deemed to be concrete evidence to connect the petitioner No. 2 to the alleged crime of loot and moreover the said petitioner has been languishing in jail since 09.05.2022 and against him the investigation has been completed.

Considering all these facts and taking into account the petitioners' custody period, in the opinion of this Court both the petitioners deserve to the privilege of bail. Accordingly, let the petitioners be enlarged 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 Court concerned in connection with Manigachi P.S. Case No. 18 of 2022, on the following conditions :-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

(2) If the petitioners tamper with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioners who has sworn affidavit in their respective miscellaneous petitions.

(Shailendra Singh, J.)

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