

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56302 of 2021

Arising Out of PS. Case No.-85 Year-2021 Thana- PATORI District- Samastipur

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Dharmendar Kumar, S/O Shobha Rai, R/O Village- Hetanpur, Dhamoun, P.S-
Patori, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sabal Kumar Jha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 19-09-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Sabal Kumar Jha, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Sahpur Patori P.S. Case No. 85 of 2021
registered for the offence punishable under Section 395 of the
Indian Penal Code.

As per prosecution case it is alleged that on
27.03.2021 while the informant along with his nephew were
returning from his shop keeping the jewellery in the dicky of
the motorcycle, in the meantime, six persons on two
motorcycles intercepted them and started assaulting on the point



of pistol and also took away the gold jewellery worth Rs.2,00,000/- and cash of Rs.40,000/-.

Learned counsel for the petitioner submits that from the F.I.R., it would be evident that the F.I.R. is instituted against unknown persons, however, during the course of investigation co-accused Sonu Bhagat was apprehended and on the confessional statement of Sonu Bhagat, the name of the petitioner transpired. He further submits that save and except the confessional statement, there is no material showing the complicity of the petitioner, inasmuch, as neither any incriminating material has been recovered from his possession nor he has been put on Test Identification parade till date, though the petitioner is in custody since 18.06.2021. He further submits that one of the co-accused, namely, Rakesh Rai @ Rakesh Kumar, who was apprehended along with co-accused Sonu Bhagat, has already been granted bail by the learned coordinate Bench of this Court in Cr. Misc. No. 58328 of 2021 vide order dated 29.04.2022. He lastly submits that after completion of the investigation, now charge-sheet has been submitted and, as such, there is no chance of absconding of the petitioner and tampering with the evidence.

On the other hand, learned APP for the State



vehemently opposes the bail application and submits that the name of the petitioner has been disclosed by co-accused Sonu Bhagat and from the Call Details Report it appears that from 01.01.2021 to 29.04.2021 the petitioner had talked to co-accused Sonu Bhagat for about 72 times and moreover in course of investigation one of the co-accused, namely, Karan Kumar Singh, who is said to be the associate of the petitioner and other co-accused persons, was apprehended and on whose confession and disclosure various jewellery were recovered. He also submits that the petitioner is found involved in 5 other criminal cases.

In response to the aforesaid submission, learned counsel for the petitioner submits that so far the pending criminal cases are concerned, the petitioner is on bail in all other cases and it is evident from the materials available during the course of investigation that no recovery has been made from the possession of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record, specially the Call Details Report showing the fact that the petitioner was all along in touch with other accused persons and the mobile location also suggest the presence of the petitioner



nearby the place of occurrence, apart from the audio clips of accused persons collected during the course of investigation showing the participation of the petitioner and the recovery of jewelleryes on the disclosure made by co-accused Karan Kumar, coupled with the criminal antecedent of the petitioner, this Court is not persuaded to enlarge the petitioner on bail, for the present.

However, the petitioner is at liberty to renew his prayer for bail after three months, if there would not be any substantive progress in the trial.

(Harish Kumar, J)

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