

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66070 of 2021

Arising Out of PS. Case No.-585 Year-2021 Thana- ARA NAWADA District- Bhojpur

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Guddu Kumar @ Guddu Sonar Son Of Bharat Prasad R / O- Mohalla - Tari
Mohalla PS- Ara Town, District - Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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WITH
CRIMINAL MISCELLANEOUS No. 65714 of 2021

Arising Out of PS. Case No.-585 Year-2021 Thana- ARA NAWADA District- Bhojpur

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Chhotu Kumar Son of Sh. Ashok Kumar Gupta R/o Village - M.P. Bag, Ara,
P.S.- Ara Town, District - Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 66070 of 2021)

For the Petitioner/s : Mr. Pankaj Kumar Singh, Advocate

For the Opposite Party/s : Mr. Madhura Nand Jha, APP

(In CRIMINAL MISCELLANEOUS No. 65714 of 2021)

For the Petitioner/s : Mr. Subodh Kumar Barnwal, Advocate

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 15-02-2022 The applicant Guddu Kumar @ Guddu Sonar in Cr.

Misc. No.66070 of 2021 and applicant Chhotu Kumar in Cr.

Misc. No.65714 of 2021 are accused in Crime No. 585 of 2021

registered with Ara Nawada Police Station for the offences

punishable under Sections 395/412 of the Indian Penal Code. By

these applications; they are seeking their release on bail during



pendency of the trial.

Learned counsel for the applicant Guddu Kumar argued that Guddu Kumar is the owner of the adjoining jewellery shop merely on the basis of confessional statement of co-accused Rishabh Kumar @ Rishi he is implicated in the subject crime. It is further argued that ingot of 785 grams of silver is shown to have been seized from the applicant who is himself a jeweler.

So far as applicant Chhotu Kumar is concerned, it is argued that there is no legally admissible evidence against him. He is implicated in the subject crime on the basis of confessional statement of co-accused Suraj made before the police. Recovery of an amount of rupees fifty thousand apart from ingot of gold weighing 6.06 grams came to be seized as recovery from the applicant. By placing reliance on an agreement of sale of land annexed as Annexure-2 to the application. The learned counsel for the applicant Chhotu Kumar argued that relative of Chhotu Kumar has received advance of rupees fifty thousand pursuant to the agreement and Chhotu Kumar is the sole legal heir of that relative and this is how he was possessing the same amount.

The learned Additional Public Prosecutor opposed



the application by contending that applicant Guddu Kumar had assisted the robbers in disposing the looted ornaments by melting it and his complicity in the subject crime can be seen from the confessional statement of Rishabh Kumar @ Rishi. It is further argued by the learned Additional Public Prosecutor that applicant Chhotu Kumar is one of the robbers which was looking after the spot of the incident by remaining outside the jewellery shop and recovery has been effected from him.

I have considered the submissions so advanced and also perused the materials placed before me.

It is not in dispute that both applicants are not having any criminal antecedent. Undisputedly, the charge sheet have been filed on completion of investigation.

FIR of the subject crime is lodged by Dharmendra Kumar @ Pawan Kumar who is owner of the jewellery shop. He reported that by brandishing the fire-arms, three robbers rushed inside his jewellery shop and robbed gold ornaments weighing 150 grams costing Rs.6,50,000/-.

So far as applicant Guddu Kumar is concerned, what is shown to have been recovered from him is the ingot of 785 grams of silver and the FIR is not in respect of robbing the articles or jewellery made of silver. Except confessional



statement of Rishabh Kumar @ Rishi made before the police, the admissibility of which shall have to be determined at the time of trial, there is no other evidence worth mentioning against this applicant.

Applicant Chhotu Kumar, according to the prosecution case, was standing outside the shop and as such there was no point in subjecting him to the Test Identification Parade to the prosecution. His name surfaced on record on the basis of confessional statement of co-accused Suraj made before the police. Only that part of confessional statement which has resulted in recovery of the stolen article is admissible in evidence in view of the provisions of Section 27 of the Evidence Act. What is stated to be recovered from him is an amount of rupees fifty thousand and ingot of gold weighing 6.06 grams. Except this no evidence worth mentioning is pointed out against this applicant.

Both the applicants are not having any criminal antecedent. Investigation of the subject crime is over. Hence, considering nature of evidence available against them and the fact that they have already undergone pretrial detention for a long period of time. I see no reason to refuse bail to them and therefore, the order :-



i. Both these applications are allowed.

ii. The applicants/accused in Crime No. 585 of 2021 registered with Ara Nawada Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicants/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicants/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicants/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicants in the instant case.

The applicants to remove all office objections forthwith and the Registry to issue the certified copy of this



order only after removal of office objections by the
applicant/accused.

(A. M. Badar, J)

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