

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.59363 of 2022**

Arising Out of PS. Case No.-415 Year-2019 Thana- GAIGHAT District- Muzaffarpur

AFSAR WALI Son of Wali Ahmad Resident of - Deora, Bandhauli, P.S.-
Jaley, District- Darbhanga

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Md. Fahimuddin, Advocate

For the Opposite Party/s : Mr.Nand Kishore Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 23-12-2022 Learned counsel for the petitioner undertakes to
remove the SR defects by 16th January, 2023.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Gaighat P.S. Case No. 415 of 2019 registered
for the offences punishable under Section 395, 397 of the Indian
Penal Code and subsequently added section 412 I.P.C. He is in
custody since 09.05.2022 having three criminal antecedents as
stated in paragraph '3' of the application in which he is said to
be on bail.

As per the prosecution story, the informant has
alleged that on 17.11.2019 he proceeded by his Bolero pick up
vehicle loaded with Ghee and when he reached in front of



Maharaja line Hotel, nine miscreants on three motorbikes came there and stopped his vehicle. On the point of pistol the miscreant got him down from his vehicle and looted away.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. Petitioner is not named in the F.I.R. however he is in custody since 09.05.2022.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

Considering the facts and circumstances of the case wherein it is submitted that the petitioner was in jail in connection with Sakri P.S. Case No. 196/2019 since 03.02.2020 and at this stage when the petitioner got bail in the said case, the petitioner has been taken on remand in this case on 09.05.2022, he is not named in the FIR, his name has transpired in the confessional statement of co-accused, there is no recovery of any incriminating article from his house or possession and till date no Test Identification Parade could be conducted, therefore there is no identification of the petitioner as also there is no submission on behalf of the State that his release at this stage is likely to tamper with the evidence or interfering with the course of trial and there being orders of learned coordinate Benches of



this Court showing the co-accused has been granted bail in this case, therefore, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of ms. Juhi Sharma, learned Judicial Magistrate - 1st Class, Muzaffarpur in connection with Gaighat P.S. Case No. 415/2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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