

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.490 of 2022

Arising Out of PS. Case No.-38 Year-2021 Thana- MAHESHKHUNT District- Khagaria

LALU CHOUDHARY @ LALO KUMAR S/o Late Dashrath Choudhari
Resident of Village- Jhiktia, P.S.- Maheshkhunt, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar

For the Opposite Party/s : Mr. Arun Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 11-07-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

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

The petitioner seeks bail in connection with Maheshkhunt P.S. Case No. 38/2021, G.R. No. 650/2021 registered for the offences punishable under Sections 385, 386, 307, 504, 506/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, the informant runs a mobile shop in the name of Mahabir enterprises and on 26.02.2021 at about 11 AM three persons including the petitioner came to his shop and threatened his staff, Saurav Kumar and demanded Rs.2 Lakhs rangdari till evening and in case of non-fulfillment of



aforesaid amount till evening he would kill the informant. He further submits that they again came to this shop on same day at about 6.33 PM for receiving ransom money and fired bullet on his staff Raj Roushan and fled away from there after threatening him.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is languishing in custody since 27.08.2021 and bears criminal antecedent of one case of similar nature. He further submits that FIR is taken place on 26.02.2021 at 6.33 PM, formal FIR was lodged on 26.02.2021 at 9.30 PM from bare perusal of the seizure list it is evident that on the top of the alleged seizure list P.S. Case has been mentioned, in the seizure list time and date of seizure has been mentioned 26.02.2021 at 18.50 which is antedated if the FIR is lodged at 9.30 PM how it is possible that seizure list has been prepared at 18.50. No independent witness was being made witness of seizure list. He further submits that as per FIR, not a single word has been whispered regarding CCTV footage of occurrence, if in the shop there was CCTV camera then at the time of lodging FIR it was available.

He further submits that in para 14 of the bail petition,



the petitioner has inimical term with the police and earlier also Maheshkhunt P.S. Case No. 21/20200 has been instituted against the petitioner and others in which one S.I., Niraj Kumar Thakur was informant and present case has also been lodged at the instance of them. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, material available on record, period of custody, charge sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Khagaria, in connection with Maheshkhunt P.S. Case No. 38/2021, G.R. No. 650/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the



affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

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

(Alok Kumar Pandey, J)

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