

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.997 of 2022

Arising Out of PS. Case No.-224 Year-2021 Thana- MOUZA HIDPUR District- Bhagalpur

MD. BITTU @ MD. SHADAB Son of Late Md. Shazada Resident of
Mohalla- Hussainabad, P.S.- Babarganj, District- Bhagalpur, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sushant Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 26-07-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Mojahidpur (Babarbanj) P.S. Case No. 224 of 2021 registered
for the offence under Section 379 of the Indian Penal Code.

The accused/petitioner is not named in the F.I.R. and
is in custody since 20.09.2021.

The allegation against the petitioner is to commit theft
and while committing so, taken away motorcycle of the
informant.

Learned counsel appearing on behalf of the petitioner
submitted that petitioner is not named in the FIR and his name



surfaced in the present case, during course of investigation, as per CCTV footage, where the petitioner was identified by the informant. It is submitted that petitioner was never put on TIP and also that no stolen motorcycle was recovered from the conscious physical possession of the petitioner, during course of investigation. It is also submitted that entire allegation/prosecution against the petitioner is based upon CCTV footage, electronic evidence, but the charge-sheet has been submitted, without obtaining certificate required under Section 65(B) of the Indian Evidence Act. While concluding the argument, it is submitted that petitioner is involved in one other case, in which, he is on bail.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that petitioner is not named in the FIR.

Considering the facts and circumstances as mentioned above, as charge-sheet against the petitioner has been submitted without obtaining required certificate under Section 65B of the Indian Evidence Act, as regard to electronic evidence, let the petitioner, above named, is directed to be released on bail in connection with Mojanidpur (Babarganj) P.S. Case No. 224 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned C.J.M., Bhagalpur/concerned court,
subject to the following conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be Anwar, who is the Father-in-law of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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