

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10330 of 2023

Arising Out of PS. Case No.-99 Year-2021 Thana- BARSOI District- Katihar

Md. Muntkhab Alam @ Laddan @ Muntkhab Alam Son of Md. Afaque Alam
@ Affaque R/o Village- Molnapur, (Moulanaapur), P.S.- Barsoi, District-
Katihar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-02-2023 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. Bimal Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Shailendra Kumar
learned Additional Public Prosecutor for the State.

This is the second attempt wherein the petitioner is
renewing his prayer for bail in connection with Barsoi P.S. Case
No. 99 of 2021 registered for the offence punishable under
Section 392 of the Indian Penal Code.

Earlier, the prayer for bail of the petitioner was
rejected vide order dated 05.09.2022 passed in Cr. Misc. No.
55251 of 2021, after taking into consideration the fact that on



the confession made by the petitioner, the motorcycle which is said to have been used in the crime along with the cash of Rs. 15,000/-, was recovered from the house of the brother-in-law of the petitioner.

Learned counsel appearing on behalf of the petitioner submits that so far the motorcycle is concerned, that was not the motorcycle, which is said to have been used in the crime. Further, so far the cash of Rs. 15,000/- is concerned, the same has never been put on Test Identification Parade. He also submits that even in case of confession leading to recovery, the only part of the statement is admissible in evidence, which leads to the extent of recovery and, no other part made in the confession is admissible in the eyes of law. He next submits that during the course of trial, two of the witnesses have been examined, however, both of them turned hostile. He also submits that the petitioner is a man of fair antecedent and is in custody since 03.06.2021 and, as such, he has already punished sufficiently. He lastly submits that while rejecting the prayer for bail of the petitioner, liberty was granted to renew his prayer for bail after five months.

On the other hand, learned counsel for the State opposes the bail application and submits that the trial is in



progress and release of the petitioner would certainly hamper the trial.

Regard being had to the submissions made on behalf of the parties and considering the observation made by this Court as also the fact that two of the witnesses examined during course of trial turned hostile and the undertaking given by the petitioner that he will fully cooperate in the trial and will remain present in each and every date till its conclusion, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Katihar in connection with Barsoi P.S. Case No. 99 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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