

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17407 of 2023

Arising Out of PS. Case No.-234 Year-2022 Thana- SARAIYA District- Muzaffarpur

Sonu Kumar Son of Bigu Singh R/O Village- Bahilwara, Bhual Dakshini,
P.S.- Saraiya, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Pranav Kumar, Advocate Mr. Rajeev Ranjan No. II, Advocate Mrs. Priyanka Kumari, Advocate Mr. Bhuneshwar Mahto, Advocate
For the Opposite Party/s :	Mr. Uma Shankar Prasad Singh, APP

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

2 16-05-2023 The applicant is accused in Crime No. 234 of 2022 registered with Saraiya Police Station for the offences punishable under Section 412 of the Indian Penal Code as well as under Sections 25(1-b)a, 26, 35 of the Arms Act. By this application he is seeking his release on bail during pendency of the trial after filing of the charge sheet.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public Prosecutor appearing for the State.

Learned counsel for the applicant argued that the applicant is having clean antecedent but after his arrest in the instant case, he was remanded in three other cases registered



against unnamed accused persons. The investigation of the crime in question is over and, therefore, he is entitled for bail.

The learned Additional Public Prosecutor opposed the application by contending that loaded country-made fire-arm came to be seized from the applicant and unaccounted money of Rs.15,000/- was found in his possession.

I have considered the submissions so advanced and also perused the materials placed on record. I accept the statement made by the learned counsel for the applicant that prior to registration of this offence, no other offence was against him but he was subsequently remanded in three offences registered against unnamed persons.

According to the prosecution case, police team conducted raid upon getting information that absconding accused, i.e., present applicant Sonu Kumar and one another have come at a particular place. That is how in the raid, applicant Sonu Kumar and his associates Phul Babu Mahto came to be arrested. From possession of applicant Sonu Kumar illicit fire-arm with one live cartridge apart from an amount of Rs.15,000/- came to be seized. The prosecution is averring that the said amount of Rs.15,000/- is part of the amount looted from the robbery. Care of this averment shall have to be taken



in the crime registered in pursuant of the robbery or dacoity. That cannot be subject matter of this offence. So far as Section 412 of the Indian Penal Code is concerned, it deals with dishonest receiving of property stolen in commission of dacoity. Prima facie there is no evidence to the effect that amount of Rs.15,000/- recovered from the applicant was dishonestly misappropriated by him from the property looted in some dacoity. The applicant is reported to be a person with clean antecedent. Therefore, his further pre-trial detention is not warranted, as such the order:-

i. The application is allowed.

ii. The applicant/accused in Crime No. 234 of 2022 registered with Saraiya Police Station be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand) on furnishing two sureties of the like amount each to the satisfaction of the trial Court i.e., A.C.J.M.-IV, West Muzaffarpur, with the following conditions: -

(I) The applicant/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 applicant/accused should cooperate the



trial court in expeditious disposal of the trial against him.

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

(A. M. Badar, J)

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