

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.26362 of 2023**

Arising Out of PS. Case No.-6 Year-2022 Thana- CHAUSA District- Madhepura

Md. Azhar Ali @ Azhar Ali S/O Sobhan Ali R/O Village- Aruray Purvi, P.S-  
Puraini, Distt.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP.

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

2      24-05-2023                      1. Heard learned counsel for the petitioner and the  
learned APP for the State.

2. Petitioner seeks regular bail in connection with  
Chausa P.S. Case No. 06 of 2022 dated 07.01.2022 registered  
for the offence punishable under Section 392 of the Indian Penal  
Code.

3. The main submissions advanced by learned counsel  
for the petitioner are that the petitioner is not named in the FIR  
and during course of investigation, on the basis of confessional  
statement made by co-accused person Pankaj Kumar Muni @  
Pankaj Muni, he has been dragged in this case and the said  
statement of co-accused Pankaj Kumar Muni @ Pankaj Muni  
has no evidentiary value and after his arrest in the present  
matter, he was not put on *Test Identification Parade* and after



petitioner's remand in another case, the police called the informant and others and showed the photographs of the petitioner to them and forced to identify this petitioner, though the said persons identified this petitioner but the mode of identification was not legal as per the provisions of Evidence Act and the same shows creation of false evidence against this petitioner and in the present matter, there is no legal evidence against this petitioner though he is carrying criminal antecedents of seven cases but he has got bail in four of the said cases and co-accused Pankaj Kumar Muni @ Pankaj Muni, who is carrying criminal antecedents of seventeen cases on whose statement the petitioner's name came into light, has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 52021/2022 and accordingly, the petitioner's case stands on better footing from him. Further submissions are that the petitioner has been languishing in jail since 27.04.2022 and against him, the investigation has been completed.

4. Learned APP appearing for the State opposes the bail prayer.

5. Considering the above submissions and mainly the petitioner's plea that after his arrest in the present case no *Test Identification Parade* was conducted in respect of petitioner's



identification as per provisions of Evidence Act and the said plea has not been refuted by learned APP, though as per the order impugned, the petitioner was identified by some people residing in the vicinity of the place of occurrence but the method used by the police to get the petitioner identified was not proper as the police used petitioner's photographs to get his identification from the said persons and there is no submission by prosecution that after the petitioner's arrest in the present matter the police recovered any part of the looted money or other looted article in following with the statement made by him before the police and also taking into account the petitioner's custody period and the privilege of bail having been granted to co-accused Pankaj Kumar Muni @ Pankaj Muni on whose statement the petitioner's name came into light, in my opinion it is a fit case for bail to the petitioner. Accordingly, let the petitioner named-above be enlarged on bail, **after framing of charge**, on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Chausa P.S. Case No. 06 of 2022, on the **following conditions:-**

(i) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court



below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii) 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.

(iii) One of the bailors shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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