

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39895 of 2023

Arising Out of PS. Case No.-509 Year-2020 Thana- PHULWARISHARIF District- Patna

Sunil Kumar @ Sunil Kumar Yadav @ Sunil Yadav, aged about-31 years,
Gender-Male, Son of Late Shiv Jatan Prasad @ Late Mohan Yadav, Resident
of village – Samanpura, Dariapur, P.S. - Naubatpur, District - Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saroj Kumar Sharma, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 05-07-2023 Heard Mr. Saroj Kumar Sharma, learned counsel
appearing on behalf of the petitioner and Mr. Pawan Kumar
Chaurasia, learned APP appearing on behalf of the State.

2. Petitioner seeks bail in connection with Phulwari
Sharif (Janipur) P.S. Case No. 509 of 2020 dated 19.09.2020
and Session Trial No. 672 of 2022 registered under Section 395
of the Indian Penal Code.

3. Petitioner has earlier moved before this court for
grant of regular bail by filing Cr. Misc. No. 32487 of 2022
which was rejected by this Court on 31.08.2022 with a direction
to the learned Court below to conclude the trial within a period
of nine months. Now the petitioner has renewed his prayer for
bail by filing the present bail application.



4. Prosecution story in brief is that while the informant was going to Mithapur Mandi from his Bolero pickup van bearing registration no. UP64AT-2800, 4-5 miscreants had robbed his vehicle near Naharpura village.

5. Learned counsel appearing on behalf of the petitioner submitted that the ground of rejection of prayer for bail of the petitioner on earlier occasion was that several criminal cases were pending against him, however, the petitioner is on bail in all the cases. Learned counsel further submitted that the direction was made to the learned Court below to conclude the trial preferably within nine months and the Superintendent of Police, Patna was specifically directed to produce each and every witnesses on the date fixed by the learned trial Court. He further submitted that FIR is against unknown and the petitioner has been arrested merely on the basis of suspicion. Other similarly situated co-accused persons against whom similar allegation has been made have already been released on bail. Petitioner is in custody since 02.03.2021.

6. Considering the aforesaid fact as well as the submission made on behalf of the petitioner that trial has not been concluded. Other similarly situated co-accused persons against whom similar allegation has been made have already



been released on bail. He is in custody since 02.03.2021. Petitioner has been arrested merely on the basis of suspicion. It is well settled principle of law that a strong suspicion, howsoever, cannot take the place of proof and for suspicion an under-trial cannot be kept behind the bar, even after completion of investigation. I am of the opinion that petitioner has, *prima facie*, made out a case to be released on bail.

7. The Court below is directed to release the petitioner, above named, on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-XXV, Patna in connection with Phulwari Shariff (Janipur) P.S. Case No. 509 of 2020 dated 19.02.2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

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

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



(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(5) The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will loose its force automatically.

(6) The petitioner will make his attendance before the concerned police station under which his house is located every day at 9 AM for three months and thereafter every week at 8 a.m. till conclusion of the trial and on any single default without any valid reason on the part of the petitioner, his bail bonds shall be cancelled and the concerned SHO of the police station shall submit his monthly attendance report to the Superintendent of Police, Siwan.

8. The bail application, accordingly, stands disposed of.

(Purnendu Singh, J)

Niraj/Minu

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