

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57893 of 2023

Arising Out of PS. Case No.-359 Year-2022 Thana- MAHUA District- Vaishali

Vikash Kumar @ Vikas Kumar S/O Binod Mahto R/O Village- Sadarpur, Ps.
Mahua, Dist. Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Vishwajeet Kumar Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 09-11-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Mahua P.S. Case No. 359 of 2022 registered on 25.05.2022 for the alleged offences under Section 392 of the I.P.C. read with Section 27 of the Arms Act.

3. As per prosecution case, four miscreants on two motorcycles stopped the informant while returning home from marriage ceremony. One of them drew out a pistol and opened fire and when the informant resisted their act, at gun point they snatched his mobile phone and fled away from the spot. The name of the petitioner transpired during investigation as one of the accused persons.

4. On previous date of hearing, learned APP pointed



out that in paragraph 3 only two criminal antecedents have been mentioned whereas rejection order of the trial court shows the petitioner was having three criminal antecedents. There appears even some doubt over incorporation of Section 395 of I.P.C. in charge-sheet. Hence a report was called from learned court below which has been received and in which it has been mentioned that the petitioner was having three criminal antecedents including the present case. Learned court below has also clarified that cognizance have been taken from Section 392 of the IPC against seven accused persons. However, in B.P. No. 757 of 2023 order dated 24.05.2023 it has been mentioned that charge-sheet has been submitted by I.O. under Section 395 of I.P.C. So the report received from the learned court below clarified the doubts raised in the order sheet dated 01.09.2023.

5. The learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. Even the recovery of stolen mobile is from co-accused Rakesh Kumar who named this petitioner in his confessional statement. Further no test identification parade was conducted to identify the identity of the culprits. The whole prosecution case is based on suspicion.



There is no cogent material to connect the petitioner with the alleged offence. The petitioner is in custody since 25.07.2022 and charge-sheet has been submitted. Learned counsel further submits that petitioner is accused in two criminal cases and he is on bail in both the cases. Learned counsel further submits that the two co-accused persons namely, Rakesh Kumar has been granted bail vide order dated 27.07.2023 passed in Cr. Misc. No. 36395 of 2023 and Ravi Ranjan Kumar has been granted bail vide order dated 04.07.2023 passed in Cr. Misc. No. 22357 of 2023 by Co-ordinate Benches of this Court.

6. Learned APP opposes the submission made on behalf of the petitioner.

7. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that no recovery has been shown from the possession of the petitioner and further considering the period of custody of the petitioner and submission of charge-sheet and grant of bail to other co-accused persons, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned J.M. 1st Class, Vaishali, Hajipur in connection with Mahua P.S. Case No. 359 of 2022, subject to



the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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