

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.68628 of 2022

Arising Out of PS. Case No.-56 Year-2021 Thana- BHAPTIAHI District- Supaul

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RAKESH KUMAR S/O SIKENDRA YADAV Resident of village- Fulkaha,
P.S.- Jadia, District- Supaul

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr. Binod Kumar No.3, App

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

5 07-04-2023 Let the defect(s), if any, pointed out by the office be removed within three weeks from the date of this order failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Bhaptiyahi P.S. Case No. 56 of 2021 dated 12.05.2021 registered for the offence(s) punishable under Section(s) 394 of the Indian Penal Code.

As per the prosecution, the informant alleged that two



unknown miscreants by brandishing weapons looted a cash of Rs.1,20,000/- and other articles from his possession at the alleged place, and also caused firearm injury to the informant.

The main submissions advanced by the learned counsel for the petitioner are that the FIR was registered against two unknown miscreants and during investigation the petitioner was remanded in the present case from Raghapur P.S. Case No.157 of 2021 on the basis of his confessional statement given before the police and the co-accused Md. Juber has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 43312 of 2022 and the petitioner has been languishing in jail since 16.11.2021 and the charges have been framed upon him. Further submission is that the petitioner was not put on Test Identification Parade and nothing incriminating material or looted article was recovered from his possession and accordingly against him, there is no any legal evidence.

Though learned APP appearing for the State has opposed the bail prayer but fairly accepted that except the petitioner's long criminal history as well as his confessional statement given before the police, there is no any other material against him. It has also been submitted by learned APP that the



matter relates to serious offence of loot in which the accused persons also caused firearm injury to the victim which gets support from the injury report of the victim available in the case diary and petitioner has criminal antecedents of twelve cases.

In view of the facts, as stated above, and mainly the privilege of bail having been granted to co-accused Md. Juber whose case appears to be identical to the petitioner's case as per the prosecution's story and admittedly the prosecution is mainly relying upon the statements of this petitioner and co-accused given before the police in respect of the involvement of the petitioner in the alleged crime and the trial of petitioner has started and also taking into account the custody period of the petitioner, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner be released on bail 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 Bhaptiyahi P.S. Case No. 56 of 2021.

As one of the miscreants was having his face uncovered at the time of commission of the alleged occurrence and as per the submission made by learned APP, the accused persons were not put on Test Identification Parade which shows



laxity on the part of the concerned investigating officer as well as supervising officer, hence the order’s copy be sent to the Director General of Police, Bihar for necessary action.

(Shailendra Singh, J)

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