

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 60785 of 2022**

Arising Out of PS. Case No.-1043 Year-2021 Thana- SITAMARHI District- Sitamarhi

MD MURTUZA @ KARLOS Son of Md Jan R/o- Temple, Balughat bandh
road, Bhagwanpur, Ward No- 17, P.S.- Bhagwanpur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Dwij Raj, Advocate

For the Opposite Party/s : Mr Arun Kumar Pandey, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 24-01-2023

Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, **APP**) appearing for the State of Bihar.

The petitioner seeks bail in Sitamarhi Police Station (for brevity, **PS**) Case No 1043 of 2021 registered for the offence punishable under Sections 395, 397 of Indian Penal Code.

As per prosecution case, sixteen dacoits entered into the house of the informant and they looted a number of jewellery items, ornaments and Rs 45,000/- cash from the house of the informant. Name of the petitioner transpired during investigation as one of the accused persons involved in this dacoity.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He was not named in the First Information Report and nothing incriminating has been recovered from his conscious possession. No Test Identification Parade has been carried out for identification of the petitioner as dacoit. Petitioner's name transpired in this case on the basis of confessional statement of Naseem Nadaf @ Wasim @ Basim Nadaf, who has already been granted bail by this Court by



order dated 23.12.2022 passed in Cr Misc No 45198 of 2022. It is further submitted that no cogent material has come against the petitioner during investigation. Petitioner has two antecedents. In one of the two cases, he is on bail. Charge sheet has already been submitted against the petitioner in this case and the petitioner is in custody since 16.03.2022.

Learned APP has opposed the prayer for bail. It is submitted that the petitioner has criminal antecedents.

Having considered the rival submissions, period of custody, the fact that no recovery has been shown from the petitioner as well as the fact that investigation is complete, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Sitamarhi in Sitamarhi PS Case No 1043 of 2021 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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