

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47023 of 2022**

Arising Out of PS. Case No.-45 Year-2022 Thana- DARPA District- East Champaran

Santosh Mahto Son of Kamdeo Mahto @ Kamdev Mahto, R/o Village-
Koiriyatola, Ward No.-24, P.S.- Raxaul, District- East Champaran At Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 62262 of 2022

Arising Out of PS. Case No.-45 Year-2022 Thana- DARPA District- East Champaran

Surendra Prasad Jaiswal @ Jitendra Prasad Son of Achhelal Prasad Jaiswal
R/o vill.- San Sariya Ward No.- 13, P.S.- Muffasil Bettiah, Dist.- West
Champaran At Present R/o village - Koiriya Tola Nahar Chowk Sainik Road,
P.S.- Raxaul, Dist.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 47023 of 2022)

For the Petitioner/s : Mr. Binay Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

(In CRIMINAL MISCELLANEOUS No. 62262 of 2022)

For the Petitioner/s : Mr. Dhannjay Kumar No.2, Advocate

For the Opposite Party/s : Mr. Ajay Kumar No.2, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

5 16-03-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Petitioners seek bail in a case registered for the
offences punishable under Sections 394 of the Indian Penal
Code.

According to prosecution case, informant Vikash



Kumar Barnwal gave a written application before the S.H.O., Darpa P.S. and stating therein that on 20.03.2022 at about 11.30 A.M. his brother Vivek Kumar Barnwal had gone to Chhauradano market from his house for collection of dues amount. After collecting the dues in due course of returning from Chhauradano to his house on the way in between village Tinkoni and Lohadia near Pasaha river, the collection amount, mobile with dual sim, Adhar Card, 2 ATM cards and original papers of his motorcycle were looted away by some unknown miscreants by making fire with gun in abdomen of his brother. Thereafter, his injured brother reached of Gamharia Chowk by driving the motorcycle and he became unconscious and fell down. Thereafter, his brother was brought to S.R.P. Hospital where treatment was done.

Learned counsel for the petitioners submits that the petitioner, namely Santosh Mahto carries three more cases other than the present one in which he is on bail in all the cases whereas petitioner namely, Surendra Prasad Jaiswal @ Jitendra Prasad has clean antecedent and they have been falsely implicated in the present case only on the basis of suspicion. Further submits that the name of the petitioners have been transpired on the basis of confessional statement of the co-



accused person namely, Surendra Prasad Jaiswal and nothing has been recovered from the conscious possession of the petitioner namely, Santosh Mahto and one Aadhar Card has been recovered from possession of petitioner Surendra Prasad Jaiswal, and till date no test identification parade has been conducted by the prosecution.

Vide order dated 06.02.2023 passed in Cr. Misc. No. 62262/2022, a report was called for with regard to the present status of the trial. Report of the learned Trial Court dated 10.02.2023 reveals that the charge has been framed against the petitioners on 17.01.2023 and the case is pending for the prosecution evidence.

Learned APP for the State, on the other hand have vehemently opposed the prayer for bail of the petitioners.

Learned counsel for the petitioners further submits that in view of report of the learned Trial Court that there is no chance of early conclusion of the trial in near future and the petitioners are in custody since 31.03.2022.

Considering the aforesaid facts and circumstances, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned



Court below where the case is pending in connection with Darpa P.S. Case No.45 of 2020 arising out of G.R. Case No. 282/2022, subject to the following conditions:-

1. Petitioners will co-operate in the trial and will be properly represented on each and every date fixed by the court and will remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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