

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66114 of 2023

Arising Out of PS. Case No.-55 Year-2021 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Ankush Kumar S/O Gopal Sharma Village- Banbaripur, Ps. Bhagwanpur,
Dist. Begusarai

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate with Ms. Diksha Kumari and Mr. Raj Kumar Sinha, Advocates
For the State	:	Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 01-12-2023 Heard Mr. N. K. Agrawal, learned senior counsel duly

assisted by Ms. Diksha Kumari, learned counsel appearing on

behalf of the petitioner and learned Additional Public Prosecutor

for the State.

2. This is an application for grant of bail to the
petitioner, who has been languishing in custody since
29.03.2021 in connection with Sessions Trial No. 382 of 2021
arising out of Cheriabariarpur P.S. Case No. 55 of 2021,
registered for the offences punishable under Sections 395 and
397 of the Indian Penal Code.

3. This is the second attempt made on behalf of the
petitioner as earlier prayer for bail of the petitioner was rejected
vide order dated 19.09.2022 by this Court after taking into



consideration the fact that 60 currency notes of Rs. 100 denomination was recovered from the possession of the petitioner, apart from the fact that the petitioner was put on Test Identification Parade (TIP) and identified by the witnesses as one of the miscreants who had assaulted the cashier of the Bank by means of butt of his pistol.

4. Earlier, *vide* order dated 06.10.2023, this Court had called for the status report of Sessions Trial No. 382 of 2021 arising out of Cheriabariarpur P.S. Case No. 55 of 2021 and it has been informed to this Court that out of six witnesses, till date only one witness has been examined.

5. In the aforesaid premise, learned senior counsel appearing for the petitioner submits that now the petitioner has been languishing in custody for over a period of more than two years and only one witness has been examined and, thus, there is no likelihood of conclusion of the trial in near future. He further submits that though earlier prayer of the petitioner was rejected taking into consideration that the petitioner was identified in Test Identification Parade but this Court has failed to consider that the said Test Identification Parade was conducted after a delay of one year and as such it cannot be said to be reliable. In support of his contention, he heavily relied



upon a judgment of the Hon'ble Supreme Court in the case of *State of Andhra Pradesh v. M. V. Ramana Reddy* since reported in *1991 Cri. L. J. 2703*. By referring to the afore-noted case, he submits that in the afore-noted case, there was a delay of only 15 days in conducting TIP and in such circumstances identification has been doubted by the Hon'ble Supreme Court. He next submits that so far recovery of 60 currency notes of Rs. 100 denomination is concerned, the same has never been put on TIP as this was the note which was actually looted away by the miscreants. He also submits that the other co-accused persons who are having more or less identical allegation, they have been allowed the privilege of bail by the learned co-ordinate Bench as well as this Court in Cr. Misc. No. 62590 of 2022, Cr. Misc. No. 33165 of 2023 and Cr. Misc. No. 25936 of 2023, copies of which have been marked as annexure-3 series. He lastly submits that the petitioner having fair antecedent undertakes that he will fully cooperate in the trial and will ensure his presence on each and every date of trial.

6. On the other hand, learned APP for the State vehemently opposes the bail application and submits that this is not a case of only identification of the presence of the petitioner but it is a case where witnesses have identified in T.I.P. that he is



the person, who had assaulted the cashier of the Bank, that apart the trial is in progress and the same is likely to be concluded in near future.

7. Regard being had to the submissions made on behalf of the parties and considering the mandate of the Hon'ble Supreme Court as noted hereinabove and also the fact that till date out of six witnesses, only one witness has been examined and there is no likelihood of conclusion of the trial in near future, coupled with the fact that other co-accused persons having some or more identical allegation, they have been allowed the privilege of bail, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Begusarai in connection with in connection with Sessions Trial No. 382 of 2021 arising out of Cheriabariarpur P.S. Case No. 55 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of



trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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