

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65435 of 2022

Arising Out of PS. Case No.-225 Year-2021 Thana- BELA District- Sitamarhi

Hakim Shah @ Mostkim Son of Biltu Shah Resident of village - Mahendra Nagar, Ward No.- 4 Nagarpalika, P.S.- Mahendra Nagar, District - Dhanusha (Nepal).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Raj Kishor Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-03-2023 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Petitioner seeks bail in a case registered for the offences punishable under Sections 395 and 397 of Indian Penal Code, Section 27 of the Arms Act and Section ¾ of the Explosive Substance Act.

According to prosecution case, several miscreants carrying arms entered into the informant's house and took away Rs. 3 lac, golden ornaments, mobile phone and other materials. It is further stated that one of them was apprehended by



chowkidar but he managed to flee away while exploding bomb.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis of the confessional statement of the co-accused person, namely, Dev Narayan Choudhary. He further submits that nothing has been recovered from the conscious possession of the petitioner and till date no T.I.P. had been conducted by the prosecution. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 15.02.2022. He further submits that similarly situated, co-accused, namely :-

1) Bhola Sah @ Sambhu Sah has been granted bail by a Co-ordinate Bench of this Court vide order dated 19.09.2022 passed in Cr. Misc. No. 34749 of 2022.

2) Pramod Kumar @ Pramod Kumar Sah @ Doctor Saheb has been granted bail by a Co-ordinate Bench of this Court vide order dated 29.09.2022 passed in Cr. Misc. No. 35983 of 2022.

3) Santosh Kumar has been granted bail by a Co-ordinate Bench of this Court vide order dated 04.01.2023 passed



in Cr. Misc. No. 40121 of 2022.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries 4 criminal antecedents other than the present one.

Considering the aforesaid facts and circumstances, let the petitioner, above named, 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 learned Court below where the case is pending in connection with Bela P.S. Case No. 225 of 2021 (Sessions Trial No. 228 of 2022), subject to the following conditions:-

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

2. If the petitioner tampers 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 petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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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