

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75161 of 2022

Arising Out of PS. Case No.-270 Year-2021 Thana- CHHAURADANO District- East
Champaran

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Vivek Yadav @ Binda @ Vivek Prasad Yadav @ Binda Yadav, son of Late
Ramchandra Rai, resident of village-Shamliya Parasa, P.S.-Mahuawa
(Chhauradano), District-East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mrs. Rashmi Jha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 05-05-2023 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

The accused/petitioner is not named in the FIR and
apprehending his arrest in connection with Mahuawa
(Chhauradano) P.S. Case No.270 of 2021 registered for the
offences punishable under Sections 399, 402, 414 of the Indian
Penal Code as well as Sections 25(1-B)a, 26 and 35 of the Arms
Act.

The allegation against the petitioner is to involve
with other co-accused in preparation for dacoity, where recovery
of country-made pistol along with two live cartridges were
made from co-accused persons.

It is submitted by learned counsel that assuming the
circumstances as petitioner found involved in preparation for



dacoity, he must be named by apprehended co-accused persons but, all apprehended accused persons named only three co-accused persons, who alleged to run away from the place of occurrence and they are co-accused Rahul Kumar, Sandeep Kumar and Sheopujan Rai. It is submitted that subsequently during course of investigation, a confessional statement of apprehended accused persons was also recorded, where same apprehended co-accused persons named this petitioner, who failed to disclose name of this petitioner, at the time of arrest as other co-accused, namely, Rahul Kumar, Sandeep Kumar and Sheopujan Rai respectively. It is submitted that no incriminating material was recovered from the petitioner as per seizure list and save and except confessional statement, nothing incriminating was found against the petitioner. It is pointed out that the petitioner was implicated in this case only for the reason that he found involved in Palanwa P.S. Case No.6 of 2017, where he is on bail and due to said criminal antecedent, his prayer of anticipatory bail was rejected by learned Sessions Judge, East Champaran, Motihari despite of availability of merit in his favour.

Learned Additional Public Prosecutor for the State while opposing the prayer of bail fairly conceded that the name



of this petitioner was not disclosed by apprehended named co-accused persons in first instance rather they named co-accused Rahul Kumar, Sandeep Kumar and Sheopujan Rai who involved in preparation of dacoity with them.

In view of the above-mentioned facts and circumstances as arrested co-accused persons failed to disclose the name of petitioner at the time of arrest, who subsequently named this petitioner in their confessional statement during the course of investigation where nothing incriminating was found against the petitioner except confessional statement, let above-named petitioner, in the event of his arrest or surrender in the court below within a period of four weeks, be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Raxaul, East Champaran, Motihari in connection with Mahuawa (Chhauradano) P.S. Case No.270 of 2021, subject to the conditions as laid down under Section 438(2) of the CrPC.

(Chandra Shekhar Jha, J.)

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