

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 9477 of 2024**

Arising Out of PS. Case No.-199 Year-2022 Thana- SAMASTIPUR District- Samastipur

Vivek Kumar @ Mahi Yadav S/O ASHOK RAY VILLAGE- SUMERA, PS.
KURHANI, DIST. MUZAFFARPUR.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Nachiketa Jha, Advocate

For the Opposite Party/s : Mr Shantanu Kumar, APP

CORAM: HONOURABLE MR JUSTICE RAJIV ROY

ORAL ORDER

3 26-04-2024 Heard the parties.

2 The petitioner is in judicial custody in connection with Samastipur Town PS Case No 199 of 2022 for the offence punishable under Sections 397 and 398 of the Indian Penal Code and Section 27 of the Arms Act lodged on 18.07.2022 by the informant, Ramesh Chandra Jha.

3 As per the prosecution story, the accused persons variously armed entered the Bank and after snatching the informant's gun assaulted him. Further, one of the accused opened fire which, however, hit the pillar of the branch. The informant sustained injury on his head due to assault by the butt of the pistol. As some of the staff switched on the siren, in panic, the accused persons were forced to retreat and could not



succeed in the loot of the Bank. Accordingly, the FIR.

4 Learned counsel for the petitioner submits that the petitioner's name has come in the confessional statement of co-accused Vikash Kumar Vishal @ Vijay Mukhiya who despite having 4 criminal cases under his belt, has been granted bail by the learned Additional Sessions Judge VII, Samastipur itself (Annexure 2). It is his submission that the petitioner has remained in custody since 10.10.2023 (paragraph 8 of the petition). The last submission is that similarly situated co-accused Mukul Kumar @ Srikant Roy @ Vicky @ Bhagina has been extended the privilege of bail by this Court in Cr Misc No 73404 of 2023 (Annexure 3 to the petition).

5 Learned counsel for the petitioner submits that in that backdrop, when a person with 4 criminal antecedents has been granted bail by the learned Sessions Judge VII, Samastipur itself (Annexure 2), he with three criminal cases and the custody period, as stated above, deserves bail too.

6 Learned APP opposes the prayer stating that the petitioner has three criminal cases and the allegation is grave. Only because some of the staff switched on the siren that the Bank loot could not take place.

7 Though, considering the seriousness of the case and



the criminal antecedents of the petitioner, this Court was not inclined to grant privilege of bail to the petitioner, in view of the fact that co-accused, Vikash Kumar Vishal @ Vijay Mukhiya with 4 criminal cases and on whose confession the petitioner has been implicated, has been granted bail by the Court of learned Additional Sessions Judge VII, Samastipur itself (Annexure 2), it would be appropriate that the petitioner is also extended the same privilege but only after the framing of the charges. Accordingly, ordered.

8 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, Samastipur in connection with Samastipur Town PS Case No 199 of 2022 as also the following conditions:

(i) One of the bailors should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) The petitioner shall appear on each and every date before the trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the trial Court itself.

(iii) The petitioner shall appear before the concerned Police Station every



fortnight for next six months to mark his attendance.

(iii) The petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) The petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

9 With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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