

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28255 of 2024

Arising Out of PS. Case No.-328 Year-2022 Thana- KOTWA District- East Champaran

RAKESH KUMAR SON OF SUDISTHA RAI @ SUDISH RAI RESIDENT
OF VILLAGE - BIJDHARI, DILLYA CHATTI, P.S. - KESARIYA,
DISTRICT - EAST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.Iii, Advocate

For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-06-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is in judicial custody in connection with Kotwa P.S. Case No. 328 of 2022 registered under Section 395 of the Indian Penal Code and Section 27 of the Arms Act lodged on 13.08.2022 by the informant, Munna Kumar.

3. As per the prosecution story, the informant was running a Customer Service Centre of Central Bank Of India and on that particular day, the shop was opened with a cash of Rs. 6.1 lakh. He went out and his nephew was running the centre. In the meantime, accused persons came on two motorcycles and looted away Rs. 5,12,000/- along with ATM Cards/Debit Card and cheque book. Accordingly, the FIR.



4. It is the case of the petitioner that his name has come in the confessional statement of Munna Kumar but nothing has been recovered from his conscious possession nor any Test Identification Parade has been conducted, though he is in custody since 03.12.2022 (as stated in paragraph 17 of the petition). It is his further submission that similar situate co-accused persons, namely Bullet @ Satyendar Yadav @ Bullet Yadav has been granted bail by a co-ordinate Bench of this Court vide order dated 23.05.2023 passed in Cr. Misc. No. 25181 of 2023. He further submits that co-accuseds namely, Babloo Kumar @ Babloo Yadav @ Babloo Rai @ Akash Yadav and Dilip Yadav have been extended the privilege of bail vide order dated 28.08.2023 passed in Cr.Misc. No. 54904 of 2023 and its analogous case by this Court.

5. Learned APP opposes the prayer for bail stating that he has criminal antecedent of the same nature.

6. Taking into account the submissions put forward by the learned counsel for the petitioner, the facts on record, his name has come in the confessional statement, nothing has been recovered, no T.I. Parade has been conducted and similar situate co-accused persons has since been extended the privilege of bail, this Court is inclined to grant him privilege of bail only



after framing of the charge on the ground that he has criminal antecedent.

7. Let the petitioner be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-13, East Champaran, Motihari/concerned court in connection with Kotwa P.S. Case No. 328 of 2022, subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *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 his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next one year to mark attendance;

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

(v) the petitioners 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.

(Rajiv Roy, J)

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