

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57822 of 2024

Arising Out of PS. Case No.-40 Year-2024 Thana- TERHAGACHH District- Kishanganj

Naushad Alam @ Naushad Alim Son of Asaru Resident of Vill- Dahibhat,
P.S.- Terhagachh, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Opposite Party/s : Mrs. Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 04-10-2024 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. This is an application for grant of bail to the petitioner, who is in custody in connection with Terhagachh P.S. Case No. 40 of 2024, registered for the offences punishable under Sections 380, 456 of the Indian Penal Code and further Section 451 of the IPC was modified in place of Section 456 of the IPC vide order dated 10.05.2024.

3. Based upon the written report, the prosecution alleges that on 07.05.2024 when the informant along with his family members went to attend the marriage, in the night of that fateful day a theft has been committed in his house and all the valuables worth more than Four Lakhs have been stolen away.

4. Learned Advocate for the petitioner contended that



FIR has been instituted against unknown thieves, however, during the course of investigation the name of the petitioner has been surfaced in the confessional statement of the co-accused person. On the basis of the said confessional statement, the petitioner was remanded in the present case from Terhagachh P.S. Case No. 42 of 2024 on 21.05.2024, since then the petitioner has been incarcerated. Save and except the confessional statement, there is no material suggesting the complicity of the petitioner in the present crime. Neither any incriminating material has been recovered nor the presence of the petitioner was found near the place of occurrence. It is next contended that in fact on account of the past criminal antecedent of the petitioner, his name has been implicated in this case without there being any material which shows the *mala fide* attitude of the police personnels. Be that as it may, the crime in question is triable by the Magistrate and now the investigation of the crime is complete and the charge-sheet has been submitted. It is lastly contended that one of the co-accused person, having identical allegation, has been allowed the privilege of regular bail in Cr. Misc. No. 57584 of 2024 vide order dated 21.08.2024, the copy of which has been placed before this Court.



5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that altogether six cases are pending against the petitioner which speaks loud about his conduct.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the entire case is based upon confessional statement, moreover, the investigation of the crime is complete and the charge-sheet has been submitted; the criminal antecedent of the petitioner cannot be a sole ground to keep him behind the bar, coupled with the fact that one of the co-accused person has been allowed the privilege of bail, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate First Class, Kishanganj in connection with Terhagachh P.S. Case No. 40 of 2024, subject to the condition that one of the bailors shall be the own/close family members 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.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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