

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57566 of 2024

Arising Out of PS. Case No.-571 Year-2023 Thana- GOVINDGANJ District- East
Champaran

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Raju Kushwaha S/o Late Asarfi Kushwaha R/o Village- Champapur, P.S –
Raghunathpur, at present R/o village -Koiriya Tola, Sabiyata Nagar ward no -
24 , P.S- Raxaul , District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prateek Tandon, Adv.

For the Opposite Party/s : Mr. Anant Kumar 1, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-08-2024 Heard Mr. Prateek Tandon, learned counsel for the

petitioner and learned Additional Public Prosecutor for the

State.

2. The petitioner seeks regular bail, who is in custody
in connection with Govindganj P.S. Case No. 571 of 2023
registered for the offence punishable under Section 392 of the
Indian Penal Code.

3. Allegedly, while the informant along with his
co-driver were going on his Tata Intra Pick-up vehicle, in the
meantime, 4-5 persons came on a Scorpio vehicle intercepted
them and started assaulting. When the informant and the co-
driver became unconscious, the miscreants looted away the
pick-up van and their mobile.



4. It is contended on behalf of the petitioner that the FIR has been instituted against unknown miscreants. However, during the course of investigation, the name of the petitioner has sprung up in the confessional statement of co-accused Javed, which has no evidentiary value and hit by Sections 25 and 26 of the Indian Evidence Act, is the contention of the learned counsel for the petitioner. It is further contended that, in fact, on account of past criminal antecedent, the name of the petitioner has been implicated in this case and barring the confessional statement, there is no material suggesting complicity of the petitioner in the present crime. Neither the petitioner has been put on T.I. parade nor any incriminating material has been recovered. It is also the contention of the petitioner that taking note of the previous criminal antecedent as also in the light of the mandate of the Hon'ble Supreme Court in **Jogindra Kumar v. State of U.P. [1994 (4) SCC 260]**, the prayer for bail of the petitioner has been rejected by the court below.

5. On the other hand, learned counsel for the State opposed the bail application and submitted that the petitioner bears four criminal antecedent, out of which two are identical in nature, which speak loud about the conduct of the petitioner.

6. Regard being had to the submissions made on



behalf of the parties and considering the fact that barring the confessional statement, there is no material connecting the petitioner in the present crime; mere criminal antecedent of a person cannot be the sole ground to keep him behind the bar for an indefinite period; the case of an accused is also required to be considered independently on the basis of the materials available on record and now the investigation of the crime is complete and the charge-sheet has been submitted, moreover, the petitioner is in custody since 11.03.2024 but he has not been put on T.I. parade till date nor there is any recovery, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 22nd Additional Sessions Judge, East Champaran, Motihari in connection with Govindganj P.S. Case No. 571 of 2023, subject to the condition that one of the bailors will be the close relatives 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.

(Harish Kumar, J)

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