

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61457 of 2023

Arising Out of PS. Case No.-39 Year-2022 Thana- SUGAULI RAIL P.S. District- West
Champaran

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NESARUDDIN Son of Abdul Rahim VILLAGE GHORASAHAN DARJI
MOHALLA, WARD NO 11, PS -GHORASAHAN, EAST CHAMPARAN.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Abhijeet Gautam
For the Opposite Party/s : Mr.Md. Mushtaque Alam

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 23-01-2024 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner seeks bail in connection with GRPS
Sagauli (Bettiah O.P.) P.S. Case No. 39/2022 registered for the
offences punishable under Sections 401, 414, 34 of the Indian
Penal Code.

3. As per prosecution case, there is alleged recovery
of 09 OPP company mobiles and 31 VIVO company touch
screen mobiles and cash Rs.180/- from the bag of the petitioner
and he apprehended on the spot.

4. Learned counsel for the petitioner submits that
petitioner is quite innocent and has committed no offence as
alleged in the FIR. The alleged recovery was said to have made



from the petitioner while he was going by the train and on the basis of suspicion he was apprehended by the police. Except suspicion, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. The petitioner is languishing in custody since 20.07.2022. Learned counsel for the petitioner submits through supplementary affidavit that the petitioner bears criminal antecedent of four cases including the present case and in all the three cases he is on bail. The petitioner has been remanded in one case after another in a routine manner after being apprehended in the present case. No incriminating article has been recovered from the conscious possession of the petitioner. He further submits that charge has already been framed and there is no material on record against the petitioner showing the allegation of threatening or intimidation to the witnesses or tampering with the evidence. He further submits that the petitioner has served one year and six months in judicial custody which is near about half of the sentence for the offence under Section 414 of the I.P.C. and the delay of trial is not attributable to the petitioner. He further submits that the petitioner is not in any way connected with other accused persons so no case is made out under Section 401 of the I.P.C. against the petitioner.



5. The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner keeping in view the alleged recovery was made from the possession of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and argument advanced on behalf of both sides and also taking into consideration the material available on record, 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 Railway Judicial Magistrate, Bettiah, West Champaran in connection with GRPS Sagauli (Bettiah O.P.) P.S. Case No. 39/2022, corresponding to G.R. no.3142/2022 subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for a single date without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.



(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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