

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70623 of 2024**

Arising Out of PS. Case No.-212 Year-2023 Thana- JAHANABAD District- Jehanabad

Gard Tiwari, Son of Mogal Tiwari, Resident of Village- Rasulpur, P.S.-
Lalganj, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate
Mr. Raju Goshwami, Advocate
Ms. Diksha Kumari, Advocate
Mr. Kumar Rajdeep, Advocate
For the Opposite Party/s : Mr. Sunil Kumar Pandey, Advocate

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

2 04-10-2024 Heard Mr. N.K. Agarwal, learned Senior Advocate

appearing on behalf of the petitioner and the learned Additional

Public Prosecutor for the State.

2. The application for grant of bail to the petitioner
who is in custody in connection with Jehanabad P.S. Case No.
212 of 2023 vide Session Trial No. 472 of 2024 registered for
the offences punishable under Sections 392 and 412 of the
Indian Penal Code.

3. Based upon the written report the prosecution
alleges that while the informant was going to his house after
withdrawing Rs. 5 lakhs from the SBI Branch, Jehanabad, in the
mean while two miscreants arriving on a motorcycle came and



intercepted him and looted away his money.

4. Learned Senior Advocate appearing on behalf of the petitioner contended that admittedly the FIR has been instituted against two unknown miscreants, however during the course of investigation on the basis of the CCTV footage, the name of the petitioner has been implicated in this case. Adverting to the impugned order, learned Senior Advocate thus submits that surprisingly the petitioner on the fateful day was found in the bank and thus suspicion has been raised, but he has never been put on Test Identification Parade. Had the petitioner been engaged in the crime in question, he must have been put to Test Identification Parade in order to identify his complicity in the crime. The petitioner has been incarcerated since 26.07.2024, but till date there is no Test Identification Parade. It is further alleged that the malafide on the part of the police is also writ large, as the wife of the petitioner has also been made accused in this case only on account of the fact that in course of search, a cash of Rs. 9,500/- has been recovered. Again this amount has not been put on Test Identification Parade as to whether the amount recovered is the subject matter of the crime or not. It is lastly contended that the reason behind the false implication of the petitioner is his criminal antecedent and one



compliant filed by his wife against the local police personnels, the copy of which has been brought on record by way of Annexure P2.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the presence of the petitioner in the bank speaks loud about the complicity coupled with his criminal antecedent as has been disclosed in paragraph no. 3 of the bail application which runs eight in numbers.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that neither the petitioner, nor the so called amount of Rs. 9,500/- have been put on Test Identification Parade in order to verify the genuineness of the complicity of the petitioner, as also the fact that investigation of the crime is complete and the chargesheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional & Sessions Judge IX, Jehanabad in connection with Jehanabad P.S. Case No. 212 of 2023 vide Sessions Tr. No. 472 of 2024, 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.
- (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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