

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72614 of 2024

Arising Out of PS. Case No.-349 Year-2023 Thana- KUSHESHWARASTHAN District-
Darbhanga

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Kailash Ray @ Kaila S/o Dinesh Ray @ Dinesh Kumar Ray R/o Village-
Jhajhara, P.S.- Kusheshwar Asthan, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mrs. Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-10-2024 Heard the learned Advocate for the petitioner and the

learned APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Sessions Trial No. 45 of 2024, arising out of Kushehswar Asthan P.S. Case No. 349 of 2023, registered for the offence punishable under Section 392 of the Indian Penal Code.

3. While the informant, who happens to be operator of CSP Centre of Punjab National Bank was coming to his home on a bike after withdrawing Rs. 2,35,000/-, he was intercepted by the miscreants, who tried to snatch his bag containing cash. On protest, the miscreants assaulted him due to which he sustained injury and thereafter they looted away his cash.



4. Learned counsel for the petitioner contended that the FIR has been instituted against unknown miscreants. However, during the course of investigation, the name of the petitioners have sprung up on the confessional statement of co-accused *Dilshad @ Chhotu*. On the aforementioned confessional statement, the petitioner was apprehended and after recording his confession, cash amount of Rs. 21,000/- was recovered. Learned Advocate for the petitioner thus, contended that the cash amount (which have been recovered from the possession of the petitioner) is not the subject matter of the crime. Neither the petitioner has been put on Test Identification Parade nor the cash, in question. The entire case against the petitioner is based upon the confessional statement and the amount, which is said to have been recovered from the possession of the petitioner is his own money. It is next contended that co-accused person, against whom there is similar allegation, has been allowed the privilege of regular bail by this Court in Cr. Misc. No. 48694 of 2024, the copy of which has been placed on record. It is lastly contended that now the petitioners have been incarcerated since 23.11.2023.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that



the petitioner bears two criminal antecedent, which speaks about his involvement in similar nature of crime.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that during the course of investigation, it has not come whether the amount which has been recovered from the possession of the petitioner is subject matter of the crime, neither the petitioner has been put on Test Identification Parade nor the cash, in question, and he has been incarcerated for about an year, let the petitioner, named above, 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 1st Additional Sessions Judge, Benipur, Darbhanga in connection with Sessions Trial No. 45 of 2024, arising out of Kushehswar Asthan P.S. Case No. 349 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.

(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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