

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74997 of 2024

Arising Out of PS. Case No.-24 Year-2023 Thana- MOTIHARI MUFASIL District- East
Champaran

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Upendra Kumar, Son of Rajdev Mukhiya, R/O-Village-Siswa, P.S - Banjariya,
District-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s : Mr. Mrityunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 18-10-2024 Heard learned 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 Muffasil P.S. Case No. 24
of 2023 registered for the offence punishable under Section 392
of the Indian Penal Code.

3. While the informant was coming to the house on
his motorcycle, in the meantime, three persons boarded on a
motorcycle overtook the motorcycle of the informant and on the
point of pistol, looted away his motorcycle and other valuables.

4. Learned Advocate appearing on behalf of the
petitioner contended that during the course of investigation on



the basis of the disclosure made by a spy, one co-accused namely Guddu Sahani, was apprehended and thereupon the name of the petitioner and others have surfaced on the confessional statement of said co-accused. The person on whose confession the name of the petitioner has transpired, he has been accorded the privilege of regular bail by this Court in Criminal Misc. No. 62980 of 2024, vide order dated 27.09.2024. Neither the petitioner has been put on Test Identification Parade, nor any incriminating material has been recovered. Moreover, the petitioner has been incarcerated in custody since 18.07.2024. Other co-accused persons having identical allegation have also been granted bail by this Court, the copies of which has been brought on record by way of Annexure 2 series.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the petitioner bears two criminal antecedent of identical nature and, as such, he appears to be a habitual criminal.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that save and except the confessional statement there is no material suggesting the complicity of the petitioner in the crime, moreover the



investigation of the crime is complete and the charge-sheet has been submitted, 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 Chief Judicial Magistrate, Motihari, East Champaran in connection with Muffasil P.S. Case No. 24 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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