

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 23 of 2023**

Arising Out of PS. Case No.-122 Year-2022 Thana- BIRAUL District- Darbhanga

Ganga Ram Mukhiya S/o Late Sonelal Mukhiya @ Monelal Mukhiya R/v-
Sisauna, P.O.- Kewatgama, P.S.- Kusheshwar Asthan, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Ajay Kr Thakur, Advocate
For the Respondent/s : Mr Pranav Kumar, APP

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 22-10-2024

With consent of both the parties, heard finally.

2 This revision petition has been preferred by the petitioner being aggrieved with the order dated 18.10.2022 passed by the learned Additional Chief Judicial Magistrate I, Biraul, Darbhanga in Biraul PS Case No 122 of 2022 whereby and where under the learned ACJM rejected the application filed under Section 457 of the Cr P C by the petitioner.

3 According to the case of the prosecution, on the basis of information given by one Shailendra Kumar, offence under Sections 395 and 397 of the IPC and Section 27 of the Arms Act has been registered against some unknown persons. During the course of investigation, Rs 2,30,000/- has been seized from the



house of the present petitioner. For taking the temporary custody of the said seized amount, the petitioner filed an application under Section 457 of the Cr P C before the learned ACJM which has been dismissed vide the impugned order dated 18.10.2022. Hence, this revision petition has been preferred.

4 It is submitted by the learned counsel for the petitioner that joint family land of the petitioner was acquired by the Government and Rs 43,78,344/- was paid as compensation to the petitioner and his family members. According to the counsel, the amount of compensation was credited in the bank account of petitioner, i e, SB Account No 3732827073 of Central Bank of India, Dharampur Branch, Kusheshwar Asthan, Darbhanga. Learned counsel further submits that the petitioner had withdrawn Rs 1 lac, 2 lacs, 3 lacs and 2 lacs respectively on 06.05.2022, 04.05.2022, 27.04.2022 and 16.04.2022, i e, just prior to the seizure of Rs 2,30,000/-. According to the counsel, the above seized amount is not a looted money and it is the personal money of the petitioner which was received by him from his bank account and was kept in the house for the purposes of marriage of his daughter but the learned ACJM did not consider the said aspect. He further submits that while deciding the application, the learned ACJM did not consider the fact that no other person claimed the



above amount. Therefore, during the course of trial, the petitioner is entitled to be in possession of the said seized amount. Hence, it is prayed by the counsel that the seized amount may be released in favour of the petitioner.

5 Learned counsel for the State opposes the argument raised by the learned counsel for the petitioner.

6 Heard, perused the impugned order as well as the documents annexed with the petition.

7 Perusal of documents annexed with the petition, it transpires that in view of acquisition of land, certain amount was received by the petitioner and his family members. It also transpires that immediately before the seizure, Rs 8 lacs has also been withdrawn from his back account. Though it is a matter of evidence that the seized amount of Rs 2,30,000/- is the looted amount or the personal amount of the petitioner but at present, no other person has claimed the said amount. The fact also shows that the amount has been seized from the possession of the petitioner. Trial is going on and it will take years to finalize. Therefore, it will be appropriate to release the amount temporarily in favour of the petitioner.

8 Accordingly, the petition is allowed.



9 On submission of personal bond and one surety, the amount of Rs 2,30,000/-, which has been seized from the petitioner, will be released in his favour temporarily with the condition that the petitioner will return the amount, if so directed by the trial Court.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.10.2024
Transmission Date	25.10.2024

