

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19587 of 2025

Arising Out of PS. Case No.-259 Year-2017 Thana- DESARI District- Vaishali

Birendra Rai S/o Late Bishun Datt Rai @ Late Vishnudatt Ray R/o vill -
Nayagaon, P.S.- Desari, Distt.- Vaishali at Hajipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate
For the State : Mr. Sanjay Kumar, Addl. P.P.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 22-04-2025 Heard Mr. Chandra Mohan Jha, learned counsel for
the Petitioner and Mr. Sanjay Kumar, learned APP for the State.

2. Petitioner seeks regular bail in connection with
Desari (Chandpura O.P.) P.S. Case No. 259 of 2017 dated
03.11.2017 registered for the offence punishable under Section
392 of the Indian Penal Code. After the investigation, police
submitted chargesheet under Section 395 of IPC.

3. The main submissions advanced by learned counsel
for the petitioner are that the instant matter relates to the loot of
Rs. 1,46,000/- from the possession of the informant and his
companion who were riding on a motorcycle at the time of the
alleged occurrence and carrying the collected money concerned
to their office and on the way, as per the allegation, three
accused persons riding on a motorcycle, forcibly stopped the



motorcycle of the informant and thereafter, snatched the money kept in the motorcycle's dickey and thereafter, started fleeing but they were identified by the locals but except this identification by the locals, there is no material against the petitioner and further, after the petitioner was taken into custody, the police failed to recover any part of the looted money from his possession and the motorcycle which was used in the alleged crime by the accused, was not recovered from his possession rather the same was recovered from the possession of one of the co-accused's mother. It is further submitted that as per the prosecution's case, local persons who were present at the alleged place of occurrence, claimed to have identified the accused including the petitioner but their names have not been mentioned in the FIR and on this point, the FIR is completely vague. It is further submitted that the alleged occurrence is said to have taken place in day time at 2:30 pm and it is not the case of the prosecution that the accused persons were having their faces covered while committing the alleged offence of loot and despite this fact, the petitioner was not put on test identification parade, so, except the identification by some locals whose identity has not been disclosed in the FIR, the petitioner has been dragged in this matter. It is lastly submitted that the



petitioner has been languishing in jail since 04.01.2025 in the present matter and against him, the investigation has been completed. Though, there are criminal antecedents of two cases against the petitioner but he is on bail in both the said cases and further, the co-accused, Avinash Shrivastav @ Amit Srivastava carrying similar nature of allegation, has been granted bail by the then co-ordinate Bench of this Court vide order dated 01.04.2019 passed in Cr. Misc. No. 19764 of 2019 and one co-accused namely, Manoj Rai, who surrendered before the trial court, has also been granted bail by the trial court itself.

4. Learned APP for the State has opposed the prayer for bail of the petitioner.

5. In the facts and circumstances of this case as well as considering the aforesaid submissions and mainly petitioner's the plea that only on the basis of identification of the petitioner by some locals whose identity has not been disclosed in the FIR, he has been made accused and during the investigation, he was not put on test identification parade before the informant and his companion despite the alleged occurrence is said to have been committed in day time, in my opinion, it is a fit case for bail to the petitioner. Accordingly, let the petitioner named-above be enlarged on bail on furnishing bail bond of Rs.



20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Desari (Chandpura O.P.) P.S. Case No. 259 of 2017.

(Shailendra Singh, J)

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