

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28247 of 2024

Arising Out of PS. Case No.-207 Year-2022 Thana- KHAGARIA District- Khagaria

Md. Khurshid Alam S/O Abdul Kadir Resident of village- Bakari, P.S-
Khodabandpur, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 37286 of 2024

Arising Out of PS. Case No.-207 Year-2022 Thana- KHAGARIA District- Khagaria

DHIRAJ KUMAR S/O RAM KISHOR SINGH Resident of Village-
Gobindpur, PS- Khushrupur, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Branch Manager Bandhan Bank, Branch- Khagaria,P.S- Khagaria, Dist-
Khagaria

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 81361 of 2024

Arising Out of PS. Case No.-207 Year-2022 Thana- KHAGARIA District- Khagaria

Pankaj Singh @ Pankaj Kumar Singh @ Pankaj Kumar S/o Late Ram Nath
Prasad Singh Resident of Village- Pakra, Pakra, PS- Naugachia, District-
Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 28247 of 2024)
For the Petitioner/s : Mr.N A Shamsi, Advocate
For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP
(In CRIMINAL MISCELLANEOUS No. 37286 of 2024)
For the Petitioner/s : Mr.Raj Kumar, Advocate
For the Opposite Party/s : Mr.Md. Aslam Ansari, APP
(In CRIMINAL MISCELLANEOUS No. 81361 of 2024)



For the Petitioner/s : Mr.Arun Kumar Tiwari, Advocate
For the Opposite Party/s : Mr.Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 18-01-2025 Heard learned counsel for the petitioners and learned
A.P.P. for the State in all the three cases.

2. The petitioners in all the three cases seek regular bail in connection with Khagaria P.S. Case No. 207 of 2022 (G.R. No.622 of 2022), lodged on 10.03.2022 under Sections 395 and 397 of the Indian Penal Code.

3. As per the prosecution case, six unknown miscreants committed dacoity in Bandhan Bank and looted Rs.40,72,799/- and mobile phones of the staffs of the Bank on the point of pistol and they fled away from the scene.

4. Learned counsel for the petitioner in Criminal Miscellaneous No. 28247 of 2024 submits that the petitioner is innocent and has committed no offence. He is in judicial custody since 09.08.2023. The name of the petitioner has surfaced in this case on the basis of confessional statement of co-accused and save and except, confession, there is nothing against the petitioner. He further submits that chargesheet has already been submitted in this case and no purpose would be served keeping the petitioner behind the judicial custody. It is true that the criminal antecedent of the petitioner is not clean as



he is accused in four more criminal cases, but in all the cases, he has been granted bail. Learned counsel further submits that the confession before the police has no evidentiary value in the eyes of law. Therefore, the petitioner deserves for bail.

5. Learned counsel for the petitioner in Criminal Miscellaneous No. 37286 of 2024 submits that the petitioner is innocent and has committed no offence. The petitioner is not named in the present case, rather his name has come in this case on the basis of confessional statement of co-accused namely Raja Sahni @ Maikal @ Munna @ Dangar. He further submits that no incriminating articles either cash amount or mobile phone have been recovered from the possession of the petitioner. He further submits that from the case diary it transpires in the main part of the case diary that the name of the petitioner has not surfaced anywhere but by virtue a supplementary case diary his name has figured from the mouth of co-accused Raja Sahni but prior to that all recovery took place. He further submits that it is true that the antecedent of the petitioner is not clean as he is accused in six more criminal case, but in all the cases, he has been granted bail. He further submits that in the CCTV footage, the present petitioner has not been identified. He is in custody since 03.02.2024, as such, he



deserves for bail.

6. Learned counsel for the petitioner in Criminal Miscellaneous No. 81361 of 2024 submits that petitioner is innocent and has committed no offence. The name of the petitioner has surfaced in this case only on the basis of confessional statement of co-accused Sumit Kumar and Md. Khurshid and only thereafter, the petitioner was remanded in this case on 11.10.2023. It is true that the criminal antecedent of the petitioner is not clean as he is accused in six more criminal cases, but in all the cases, he has been granted bail. He further submits that co-accused Sumit Kumar on whose confession, his name has figured in this case, has been granted bail by a co-ordinate Bench of this Court vide order dated 05.05.2023 passed in Criminal Miscellaneous No. 13411 of 2023. He further submits that two other co-accused have also been granted bail vide orders dated 08.09.2023 and 12.01.2024 passed in Criminal Miscellaneous No. 45543 of 2023 and Criminal Miscellaneous No. 86673 of 2023. He further submits that one other co-accused has been granted bail vide order 13.09.2024 passed in Criminal Miscellaneous No. 30357 of 2024. Learned counsel further submits that the confession before the police has no evidentiary value in the eyes of law. Therefore, the petitioner



deserves for bail. Learned counsel further submits that no material has come regarding identification of the petitioner in CCTV footage as it is alleged that the accused persons have been identified in the CCTV footage. He further submits that one other co-accused namely Dhanraj Kumar @ Dhanu on whose confession the petitioner's name has figured in the present case and on whose disclosure looted amount has been recovered, has been released on bail vide order dated 30.09.2022 passed in Criminal Miscellaneous No. 38168 of 2022 and in that background, the petitioner deserves bail.

7. The learned Additional Public Prosecutor strongly opposes the prayer for bail and argues that while it is indeed true that a confession made before the police does not have evidentiary value in itself under the law, the situation is different when that confession is corroborated by other reliable evidence. Specifically, the APP emphasizes that if the confession is supported by substantial corroborative materials, such as the recovery of looted articles or items purchased with looted money, then the confession cannot be dismissed solely on the basis of it being a police statement. The recovery of these articles, made possible by the confessional statement, strengthens the case and indicates that the confession has been



corroborated by external evidence, thus making it more than just an isolated confession.

8. Learned Additional Public Prosecutor further submits that during pendency of these applications progress report has been called for and from perusal of progress report it appears that the accused persons in custody don't appear together in the Court on the fixed date for several dates due to their production have been required in different Judgeship. P/W has been issued for production of all the accused on the next fixed date 03/01/2025 for commitment of whole record to learned Sessions Court. The record is currently pending for the supplying of police paper and commitment to the Court of Principal District and Sessions Judge for trial and disposal of the said case.

9. In the aforesaid background, this Court is not inclined to grant regular bail to the petitioners in all the cases aforementioned, at this stage.

10. Accordingly, the prayer for regular bail of the petitioners in all the cases aforementioned in connection with Khagaria P.S. Case No.207 of 2022 (G.R. No. 622 of 2022), pending before the learned CJM, Khagaria is hereby rejected.

11. It is hereby directed to the Trial Court that, in light



of the enactment of The Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS Act, 2023'), which includes provisions for the conduct of trials and proceedings via Electronic Mode, as outlined in Section 530 of the BNSS Act, 2023, the Trial Court shall proceed with the trial in accordance with this provision. Furthermore, in view of Section 531 of the BNSS Act, 2023, which saves the applicability of the new provisions to ongoing trials, the Trial Court is directed to continue the proceedings without delay.

12. It is noted that the trial has been delayed by the accused persons on various pretexts, including their failure to appear before the Trial Court. The Trial Court is thus instructed to take appropriate steps to ensure that the trial proceeds expeditiously, utilizing the provisions provided under Sections 530 and 531 of the BNSS Act, 2023, to avoid further delays.

13. The Principal District and Sessions Judge, Khagaria, is directed to look into the matter and do the needful so that the speedy trial which is the constitutional vision of justice has to be fulfilled within six months from today.

(Dr. Anshuman, J)

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