

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78466 of 2025

Arising Out of PS. Case No.-19 Year-2025 Thana- PATLIPUTRA District- Patna

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Jyoti Kumari @ Lovely Kumari @ Lovely, W/o Ravi Kumar, R/o Sakin - East
Nand- Gola, P.S.- Malsalami, Patna City, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarvottam Kumar, Adv.
Mr. Ranjan Kumar Sharma, Adv.
For the Opposite Party/s : Mr. B.N. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

5 28-01-2026 In compliance of this Court's order dated 21.01.2026,

the Investigating Officer of the present case is personally

present in Court.

2. Heard the learned counsel for the petitioner and the

learned Addl. Public Prosecutor for the State.

3. The petitioner is apprehending her arrest in

connection with Patliputra P.S. Case No. 19 of 2025 registered

for the offence(s) under Section(s) 331(4) and 305(a) of the

Bharatiya Nyaya Sanhita, 2023 (B.N.S.).



4. The prosecution case is to the effect that a theft was committed in the house of one Malti Devi and it was alleged that certain ornaments, Rs. 10,000/- in cash and certain electronic items were taken away by unknown miscreants.

5. The learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case and her name has transpired in the confessional statement of one co-accused, namely, Golu Kumar, who was apprehended in connection with Patliputra P.S. Case No. 591 of 2024. It has been submitted that the police thereafter implicated the petitioner in nine other cases, which was lodged against unknown persons, merely taking the statement of co-accused/Glou Kumar into account. It has further been submitted that from the perusal of the case diary, it would be evident that no seizure-list has been attached to the same, however, one seizure-list has been produced by the Investigating Officer, from the perusal of which it would be evident that the seizure-list contains the numbers of all the ten cases. It has also been submitted that till date, the T.I.P. of the said materials have not been done and it is an admitted fact that the husband of the petitioner runs a jewellery shop in the name of Krishna Jewelers. The learned counsel for the petitioner submits that the



recovered articles are regular ornaments which were the part of the ornaments, which were kept by the husband of the petitioner for sale and this is one of the reasons why the same has not been put on T.I.P. as none of the claimants have come forward till date. It has lastly been submitted that the petitioner does not have any concern with the running of the jewellery shop of her husband and, in fact, she is a housewife.

6. The learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner.

7. Considering the facts and circumstances of the case and the submissions advanced on behalf of the parties, let the petitioner, above-named, be released on anticipatory bail, in the event of her arrest or surrender before the concerned Court/successor Court within a period of four weeks from today, on her furnishing bail bond in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court/successor Court where the case is pending in connection with Patliputra P.S. Case No. 19 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 read with corresponding Section 482(2) of the Bharatiya Nagarik



Suraksha Sanhita, 2023 (B.N.S.S.) as well as subject to the following conditions :

(i) One of the bailors of the petitioner shall be her close relative and the other shall be a local resident.

(ii) The petitioner shall remain physically present before the concerned Court on each and every date of the trial and shall cooperate in the investigation.

(iii) In case of absence for two consecutive occasions or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the concerned Court.

(iv) The concerned Court shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that she has concealed her criminal antecedent, the Court concerned shall take necessary steps for cancellation of her bail bond. However, the acceptance of bail bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(v) In view of the antecedent of the petitioner, the petitioner is directed to appear before the Superintendent of Police, Patna within fifteen (15) days of her release with a copy of this order and every two weeks thereafter for the next nine months. The conduct of the petitioner will be kept under watch in this period by the concerned Superintendent of Police and if it is found wanting in any respect, a report shall be made to the Court concerned by him to initiate a proceeding for cancellation of bail of the petitioner for reasons of misuse of bail. After reporting to the Superintendent of Police, a certificate will be filed by the petitioner before the Court concerned.

8. It is made clear that the observations, if any, made in this order, shall be of no bearing during the trial.



9. The application stands allowed.

10. In this matter, this Court came across the fact that the Test Identification Parade (T.I.P.) has not been conducted of the materials recovered by the I.O. From the perusal of the seizure-list, which was produced today by the I.O., it would appear that the seizure-list contains the name of ten First Information Reports including the present one. This Court find that the seizure is said to have been made on 13.01.2025 and when the I.O. was specifically asked as to whether any T.I.P. of the materials seized from the shop of the co-accused/Ravi Kumar has been put on T.I.P., he had answered in negative.

11. The Bihar Police Manual, 1978 talks about the identification of the property under Rule 166, which reads as hereunder:

166. Identification of property.-(a) Where any Property recovered in a search or otherwise, and alleged or suspected to have been stolen, is of a commonplace nature, in regard to the identification of which reasonable doubt could arise, a test identification shall be held. Every precaution shall be taken to prevent the witness or witnesses seeing it before the test identification is held.

12. Rule 236(b) of the said Manual contains instructions, which needs to be followed word by word:



1. For identification of one article three or four articles of nature shall be mixed up.

2. No mark shall be put on a suspected article. If it is essential to give a mark similar marks shall be placed on unsuspected articles.

3. Care shall be taken to see that witnesses have not seen the suspected articles before the identification. Hence the witnesses shall not go with that officer who carries the articles before magistrate.

4. Where any special mark has been given on articles from before and their descriptions have been noted in first information report and in the statement of witnesses, the investigator shall fully scrutinise it after the article has been recovered and if from descriptions given, those articles are established, it shall not be necessary to get identification done. Only at the time of trial, the witnesses concerned shall identify these articles before courts.

5.

13. The Hon'ble Supreme Court in case of **Thammaraya Vs. State of Karnataka, 2025 INSC 108**, in paragraph 22 has held as hereunder:

“**22.** Furthermore, another very crucial missing link in the prosecution case that it failed to conduct the Test Identification Parade(TIP) of the recovered articles, thereby, bringing the identification of the material objects in Court for the first time, is under a cloud of doubt. It is a case



of sheer negligence and dereliction of duty on the part of the Investigating Agency and the Public Prosecutor for not conducting Test Identification Parade (TIP). This Court shed light on the purpose of Test Identification Parade (TIP) in ***Ramkishan Mithanlal Sharma v. State of Bombay (1954)***, wherein it held as follows:

“20. ... These parades are held by the police in the course of their investigation for the purpose of enabling witnesses to identify the properties which are the subject-matter of the offence or to identify the persons who are concerned in the offence. ...the identifying witnesses are explained the purpose of holding these parades and are asked to identify the properties which are the subject-matter of the offence or the persons who are concerned in the offence.”

14. From the aforesaid decision, it is clear that on the part of the omission of the I.O. of not conducting T.I.P. of the recovered articles, more particularly when the case of the prosecution is based solely upon recovery of those articles, would lead to creating holes in the prosecution story.

15. This Court has already seen in the present case that on account of non-identification, this Court had no option but to release the petitioner on bail as it could not be possible as of now to decipher whether the seized materials were actually



those which had been taken away in the theft cases.

16. In view of the above, the Director General of Police, Bihar, Patna is directed to communicate a copy of this order along with the directions to follow the procedures defined under the Bihar Police Manual for conducting identification part of the property/suspected articles at the earliest, so that the accused cannot taken advantage of the same.

17. The Superintendent of Police of all the Districts of Bihar shall ensure that the I.O. of the respective cases follow the procedures for identification of the property/suspected articles at the earliest in such cases of recovery of theft articles.

18. The personal appearance of the Investigating Officer of the present case is dispensed with.

(Sourendra Pandey, J)

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