

In the Court of Additional Sessions Judge-V, Danapur
Session Trial No. 385 of 2021
(Arising out of Bikram P.S. Case No. 192 of 2020)

11.08.2021

Due to COVID-19 Pandemic the bail is being taken up for hearing through virtual mode.

The bail petition dated 02.07.2021 along with petition dated: 06-08-2021 filed through E-filing on behalf of the accused-petitioner namely Sudhir Kumar, son of Vashist Yadav, R/o Village-Lai, P.S. Bihta, District-Patna has been pressed today. A copy of the bail petition has already been served to the learned Addl. P.P.

The petitioner is in judicial custody in connection with Bikram P.S. Case No. 192 of 2020 for the offence under Sections 395 of I.P.C.

Heard Sri Birendra Kumar Singh on behalf of the accused-petitioner, learned Addl. P.P. on behalf of the State.

The Prosecution case, in brief, is that the informant Indrajeet Kumar, lodged the instant case, by way of giving an application, before the S.H.O., Bikram P.S., Patna, alleging therein that when his driver coming with his Swaraj Tractor bearing Registration No. BR.01GG-3621, then near the Wazirpur More, four unknown persons riding on two Motorcycles forcibly intercepted his driver and on the point of Pistol, they took out his Tractor from his possession and fled away. It is also alleged that they also took away his driver with them by tying his limbs and mouth and dropped him near Gorakhari More beside the road and also threatened him from dire consequences.

The learned counsel for the accused-petitioner submitted that petitioner is innocent and has not committed any offence as alleged by the prosecution and petitioner has been falsely implicated in this case merely on suspicion. He further submitted that petitioner is an accused in Naubatpur P.S. Case No. 407 of 2020, 404 of 2020, 395 of 2020, 188 of 2011 and Bikram P.S. Case No. 167 of 2013 prior to this case in which the petitioner has already granted regular bail in all above mentioned cases except Naubatpur P.S. Case No. 402 of 2020. There are no other cases pending against the petitioner except above mentioned cases. That petitioner has been arrested by the police from his hosue in connection with Naubatpur P.S. Case No. 407 of 2020 while petitioner not named in the F.I.R. That in fact after arresting the petitioner the prosecution party has taken signature on some blank papers forcibly as such the police made a concocted confessional statement or seizure list. That the name of the petition has come in the light on the basis of confessional statement of the petitioner himself in Naubatpur P.S. Case no. 407 of 2020 dated 13.08.2020 regarding his improvement in this case whose in no evidenciary value in the eye of law and fact. That as a matter of fact no occurrence as alleged by the informant has taken place, the entire allegation are false and concocted one. That as as a matter of fact, neither the petitioner was present arrested at the alleged date time of occurrence on the place of occurrence not any objectionable articles were recovered from his conscious and physical possession. That the petitioner was not put up on T.I.P. and no TIP was held by the police against the petitioner. That on same perusal of the F.I.R. neither the petitioner named in the F.I.R. and during the investigation nor solid testimony was found against him. That there is no ingredient of any criminal offence against the petitioner in this case, besides it, there is no material as evidence available on record against the petitioner to connect in this case. That in fact the petitioner is victim of the present case and has falsely been victimized by the informant party in order to harass and to humiliate him in the society in collusion of local enemies. That the petitioner has been rotting in jail since 13-08-2020 in connection with Naubatpur P.S. case no. 407 of 2020 and remanded in this case dated 04-01-2021 without any fault. That the petitioner is the sole earning member of his family who any how maintain his family members by self business. That earlier the petition had moved a petition for a petition for regular bail in the Ld. Court Below with was rejected on 09-02-2021. That the petitioner is law abiding citizen and ready to abide condition if release on bail. That the petitioner is man of means having got no chance of this absconding and tampering with the evidence. That earlier neither A.B.P. nor regular bail has been filed on behalf of the petitioner either this learned court or before the

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Hon'ble High Court, Patna. That the petitioner is ready to furnish bail to the satisfaction of the Id. Court.

Learned Addl. P.P fairly conceded that informant is not an eye-witness to this case. The name of the petitioner has been surfaced only on the basis of confessional statement of accused and co-accused persons. No TIP has been conducted. Nothing has been recovered from the possession of the petitioner.

I have heard rival the submission of both the parties and perused the case record. The petitioner is not named in the F.I.R. During the course of arguments, learned defence counsel for the petitioner submitted that his name has cropped up on the basis of confessional statement of the petitioner himself in Naubatpur P.S. Case No. 407 of 2020 dated 13-08-2020 and in this present case, he is remanded on 04-01-2021. The statement of learned counsel is corroborated by Para No. 72, 92, 93, 97 and 111 of the case diary. The name of the petitioner has been surfaced on the basis of the confessional statement and confession made before police is not evidence in eye of law because it is the possession of the petitioner. It appears except confessional statement, no tangible evidence is collected. Petitioner is in judicial custody since 04-01-2021. The charge has been framed.

Considering all the facts and circumstances of the case and submission made by both the parties, materials available on the record and the petitioner is in judicial custody since 04-01-2021 and also the petitioner undertake that he will be present before this court physically on each and every date till the final disposal of this case and will comply all the conditions imposed by this court, I am inclined to enlarge the petitioner on bail. Accordingly, prayer of the bail of the petitioner named Sudhir Kumar is hereby allowed. Accused-petitioner is enlarged on bail after furnishing bail bond of Rs. 10,000/- with two sureties of like amount each to the satisfaction of this court with further conditions are (1) That one of the bailors will be a close relative of the accused-petitioner, (2) The petitioner-accused will co-operate in trial. (3) The petitioner-accused will physically present before the court on each and every date till final disposal of this case. (4) Accused-petitioner as well as sureties for the purpose of identification will produce documents either Aadhar Card, or Voter I-Card and Mobile numbers before the court at the time of furnishing bail bond. True copy of above described documents after comparing with original documents and the same will be kept in record.

Any observation made herein will be inconsequential during trial or any further stage of this case.

(Dictated)

Additional Sessions Judge-V
Danapur
11.08.2021

This is certified that this is the true copy of the order passed by this court

Addl. Sessions Judge-V, Danapur