

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)

10.01.2022

The bail petition dated 02.09.2021 has been filed on behalf of the accused-petitioner namely Akash Kumar, son of Sudhir Kumar Arti, 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 since 04.01.2021 in connection with Bikram P.S. Case No. 192 of 2020 for the offence under Section 395 of I.P.C.

Heard Sri Ashok 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 the petitioner is remanded in this case on 04.01.2022 and the accused-petitioner is quite innocent and has committed no offence and the petitioner is not named in the FIR and the petitioner has been falsely implicated in this case on the basis of confessional statement of the petitioner which has no evidentiary value in the eye of law and no occurrence as alleged in the FIR has ever taken place and none of the independent witnesses has been cited in the FIR. He further submitted that nothing has been recovered from the possession of the petitioner and the accused Sudhir Kumar has been granted bail by this learned court vide order dated 11.08.2021 and the petitioner case stand on similar footing and the petitioner is man of means and there is no chance of his absconding. The petitioner is ready to give local bailors. That the petitioner is an accused in Naubatpur P.S. Case No. 403/2020, Naubatpur P.S. Case No. 407/2020 and Naubatpur P.S. Case No. 295 of 2020. That the petitioner did moved bail before the court of A.C.J.M.O.Vi, Danapur which was rejected on 18.01.2021 thereafter the petitioner not moved bail before the court of Sessions Judge or before the Hon'ble High Court, Patna.

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. The other co-accused has been granted bail by this court and also by the Hon'ble High Court, Patna, so the case of petitioner stands on similar footing.

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. the name of the petitioner has been cropped on the basis of confessional statement of the petitioner and other co-accused persons. 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 hits by section 25 of the Evidence Act. No TIP has been conducted. Nothing has been recovered from the possession of the petitioner. It appears except confessional statement, no tangible evidence is collected. Petitioner is in judicial custody since 04-01-2021. Charge sheet has been submitted and the charge has been framed. The petitioner has criminal antecedent. The other co-accused has been granted bail by this court and also by the Hon'ble High Court, Patna in Cri. Misc. No. 41970/2021 dated 26.10.2021 and the case of the petitioner is on similar footing.

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

contd.

10.01.2022

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 namely Akash 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
10.01.2022