

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)

22.01.2022

The bail petition dated 29.10.2021 has been filed on behalf of the accused-petitioner namely Sunny Kumar, son of Rameshwar Paswan, R/o Village-Amarudiya Tola, 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 06.01.2021 in connection with Bikram P.S. Case No. 192 of 2020 for the offence under Section 395 of I.P.C.

Heard Sri Abhiram Kumar 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 thereafter perusal of written report it is quite clear that the informant is not any eye witness of this case, he has lodged this case on 20.06.2020 at 11:30 A.M. as per statement of his driver but he has not explained why not his driver has informed the local police Bikram P.S. is only and only one km far from the Goarkhari More and the police has remanded this petitioner on the basis of co-called confessional statement of one of the co-accused namely Sudhir Kumar which was prepared by the police in another case bearing Naubatpur P.S. Case No. 407/2020 in which the petitioner is on bail and no any evidence is on record to show the involvement of this said case and the police has illegally remanded the petitioner in this false case and the petitioner is innocent and has not committed any offence and the petitioner is ready to furnish his bail bond with proper sureties to the satisfaction of learned court and the co-accused Bittu Kumar, Sanjeet Kumar and Aakash Kumar have granted bail on 02.09.2021, 09.09.2021, 06.09.2021 before this learned court. The petitioner have some cases which are that Naubatpur P.S. case No. 407/2020, Naubatpur P.S. Case No. 404/2020, Naubatpur P.S. Case No. 395/2020 and Bikram P.S. Case No. 177/2020 in which he is on bail in Naubatpur P.S. Case No. 407/2020. That earlier neither A.B.P. nor regular bail has been filed on behalf of the petitioner either this learned court or before the Hon'ble High Court, Patna.

Learned Addl. P.P fairly conceded that the name of the petitioner has been surfaced only on the basis of confessional statement of co-accused person. There is no recovery from the possession of the petitioner. The other co-accused persons have granted bail by this court and also by the Hon'ble High Court, Patna and the case of petitioner stands on the same footing.

I have heard the rival submissions 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 surfaced on the basis of confessional statement of co-accused and the 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 06-01-2021. 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 06-01-2021

contd.

22.01.2022

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 Sunny 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
22.01.2022