

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21238 of 2022

Arising Out of PS. Case No.-633 Year-2021 Thana- PATRAKARNAGAR District- Patna

Munna Kumar Son of Surendra Prasad Resident of Village - Sikandra, P.O.
Fatehpur, P.S.- Belchhi, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suresh Prasad, Advocate

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 13-09-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with
Patrakar Nagar P.S. Case No.633 of 2021 registered for the
offences punishable under Sections 467, 468, 420, 471, 474 and
120B of the Indian Penal Code and Section 66C of the
Information Technology Act.

As per the allegation, the petitioner was apprehended
with sixty debit/ATM cards and as per the prosecution the
petitioner and co-accused persons indulged in cyber crime and
cheating innocent persons by forging their debit/ATM cards.



The main submissions advanced by the learned counsel Mr. Suresh Prasad for the petitioner are that in the instant case the FIR has been registered under Sections 467, 468, 420, 471, 474, 120B of the IPC and Section 66C of the I.T. Act but in view of the principle laid down by the Bombay High Court, in the case of Gagan Harsh Sharma Vs. State of Maharashtra reported in 2019 Cr.L.J. 1398, if an offence is covered under the Information Technology Act then the provision describing such offence will have the overriding effect over the provisions of the Indian Penal Code. Further submission is that the petitioner has only been found in the possession of the alleged ATM/debit cards and for the alleged wrong Section 66C of the IT Act has been inserted in the FIR and the same is punishable with maximum three years of imprisonment and as per Section 77B of the IT Act such offence shall be deemed to be bailable and the petitioner has been languishing in jail since 12.11.2021 and he has clean antecedent and he is also a student preparing for various competitive examinations. Further submission is that there is no material evidence to show the use of alleged ATM/debit cards by the petitioner and the prosecution has also failed to show the relevant ingredients to attract the offence of forgery against the



petitioner in respect of the recovered ATM/debit cards.

Learned APP Mr. Nand Kishore Prasad appearing for the State has opposed the bail prayer.

In view of above submissions and mainly taking into account the maximum punishment prescribed under Section 66C of I.T. Act which is mainly applicable in the instant case, is imprisonment for three years and the petitioner has been languishing in jail since 12.11.2021 and as per Section 77B of the I.T. Act, an offence punishable under I.T. Act for which the maximum punishment is three years of imprisonment shall be deemed to be bailable, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Patrakar Nagar P.S. Case No.633 of 2021.

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.



(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The Court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the Court below shall take strict action against him for cancellation of his bail bond.

(Shailendra Singh, J.)

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