

Hiphajat Alam @ Hifajat Alam @ Irfan @ ... vs The State Of Bihar on 19 July, 2024

Author: Anshuman

Bench: Anshuman

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.83560 of 2023

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali

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MOHAN SINGH SON OF LATE SITA RAM SINGH RESIDENT OF
VILLAGE- GOVINDPUR, FULKAHA, PS- PANAPUR KANTI, DISTT-
MUZAFFARPUR, BIHAR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 5229 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali

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Shashi Kumar Singh @Sashi Kumar Singh @ shashi kr. singh SON OF
Rambabu Singh RESIDENT OF VILLAGE- ANJANAKOT, PS- MOTIPUR,
DISTT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 15509 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali

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Ranjan Kumar @ Ranjan Jaiswal SON OF RAJENDRA SAH RESIDENT OF
VILLAGE - BETRAULIYA, PS- MUFASSIL, DIST- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 20658 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali

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Rekha Devi WIFE OF Suraj Bhan Singh RESIDENT OF VILLAGE-
GOVIND FULKAHA, PS- KANTI, DISTT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

=====

with

CRIMINAL MISCELLANEOUS No. 21381 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali
Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024

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Hiphajat Alam @ Hifajat Alam @ Irfan @ Padhu SON OF BACHA MIYA
RESIDENT OF VILLAGE- MADHUBANI, GHAT, PS- MUFASSIL,
MOTIHARI, DIST- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

=====

with

CRIMINAL MISCELLANEOUS No. 25875 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali

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Gandhi Sahani SON OF Ramchandra Sahani Village -Batrauliya Mahubani
Ghat PS -Muffasil District -East Champaran

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 26319 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- LALGANJ District- Vaishali

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GUDDU RAI S/O- SRI LOHA SINGH @ LOHA RAI R/O- VILLAGE-
MAHBAL, P.S.- MOTIPUR, DIST.- MUZAFFARPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 83560 of 2023)

For the Petitioner/s : Mr.Anjum Perveen, Adv.

For the Opposite Party/s : Mr.Sanjay Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 5229 of 2024)

For the Petitioner/s : Mr.Mritunjay Kumar, Adv.

For the Opposite Party/s : Mr.Nityanand, APP

(In CRIMINAL MISCELLANEOUS No. 15509 of 2024)

For the Petitioner/s : Mr.Mukesh Kumar Jha, Adv.

For the Opposite Party/s : Mr.Anand Kishore Choudhary, APP

(In CRIMINAL MISCELLANEOUS No. 20658 of 2024)

For the Petitioner/s : Mr.Anjum Perveen, Adv.

For the Opposite Party/s : Mr.Arun Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 21381 of 2024)

For the Petitioner/s : Mr.Y.C. Verma, Sr. Adv.

For the Opposite Party/s : Mr.Pramod Kumar Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 25875 of 2024)

For the Petitioner/s : Mr.Kanchan Kumari, Adv.

For the Opposite Party/s : Mr.Rajendra Singh, APP

(In CRIMINAL MISCELLANEOUS No. 26319 of 2024)

For the Petitioner/s : Mr.Ram Shankar Das, Adv.

For the Opposite Party/s : Mr.Kumar Veerendra Narayan, APP

Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

7 19-07-2024

Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioner of Criminal Miscellaneous No.83560 of 2023 seeks regular bail in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Sections 392 and 395 of the I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

3. As per the prosecution case, the F.I.R. has been lodged against four unknown accused persons against whom there is allegation of loot of Rs.98,19,485 (Ninety Eight Lakh, Nineteen Thousand, Four Hundred Eighty Five only) from the Axis Bank along with documents and DVR of CCTV camera, Etc.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that the F.I.R. has been lodged against unknown accused persons and the petitioner is not named. He also submits that the petitioner is an old aged person having clean criminal antecedent and he has unnecessarily been kept in custody since 01.09.2023.

5. Counsel further submits that the petitioner is in police service and it is the petitioner who has disclosed in his Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 confession due to which investigating agency become successful to identify the clue of this event. He submits that the eye witnesses of the event have categorically stated that all accused persons are aged about 20-25 years whereas the age of the petitioner is 50-55 years.

6. Counsel further submits that it has come during investigation that the petitioner's son is involved in this crime and it has also come that from the looted money, land has been purchased in the name

of daughter-in-law of the petitioner. He further submits that the petitioner is completely unaware of the event and as soon as he got knowledge, he discloses about the fact before the investigation authority, and hence, he is subject to sympathetical consideration as he is in custody since 01.09.2023.

7. Learned counsel for the State on the other hand opposes the prayer for bail and submits that whatever pleadings made by counsel for the petitioner, are not correct. He submits that it is not correct to state that due to disclosure of the petitioner, the crime has been unearthed.

8. Counsel further submits that confessional statement of the petitioner has been taken place on 01.09.2023 whereas investigating officer have unearthed the event and got the clue Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 on 16.08.2023 onwards. He also submits that the involvement of the petitioner has come in this case and as per paragraphs 178 and 179 of the case diary, looted articles including money have been recovered on the confessional statement of the petitioner and the sale deed of the land which has been purchased from looted money Rs.48 lakh has been recovered.

9. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined to grant bail to the petitioner. Therefore, the bail application of the petitioner of Criminal Miscellaneous No.83560 of 2023 is hereby rejected.

CRIMINAL MISCELLANEOUS No. 5229 of 2024

10. The petitioner of Criminal Miscellaneous No.5229 of 2024 seeks regular bail in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Section 392 of the I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

11. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that the petitioner is not named in the F.I.R. During investigation, it is alleged that his driving license has been recovered by the police. He submits that the alleged recovery has not been made from petitioner's possession rather it has been made from the possession of his brother and only due to Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 this reason, he has been figured in this case.

12. Counsel further submits that antecedent of the petitioner is clean and he is in custody since 30.08.2023 and chargesheet has already been submitted in this case.

13. Learned counsel for the State opposes the prayer for bail and submits that it is a driving license which has been recovered from the hotel where the present petitioner along with other accused persons have stayed after commission of crime and it is due to recovery of said driving license, the other accused persons have been recovered and entire matter has been unearthed which has come in paragraphs 19, 146 and 148 of the case diary. The looted articles has been recovered from the possession of the petitioner on his confession.

14. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined to grant bail to the petitioner. Therefore, the bail application of the petitioner of Criminal Miscellaneous No.5229 of 2024 is hereby rejected.

Criminal Miscellaneous No.15509 of 2024

15. The petitioner of Criminal Miscellaneous No.15509 of 2024 seeks regular bail in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Section 392 of the Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

16. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that the petitioner has unnecessarily been made accused in this case. He further submits that the petitioner is neither seen in the CCTV footage nor in the hotel rather his name has figured in this case only and only by virtue of confessional statement of co-accused, namely, Biru Kumar.

17. Counsel further submits that antecedent of the petitioner is not clean and due to this reason, police has inserted the name of the petitioner in this case. There are four criminal antecedent of similar nature in which he is on bail. He is in custody since 31.08.2023 and chargesheet has already been submitted in this case.

18. Counsel further submits that it is true that during investigation, it has come that money has been recovered from his possession, but in this regard, counsel submits that money is the not looted money rather it is personal money of the petitioner as he is a businessman.

19. Learned counsel for the State opposes the prayer for bail and submits that the petitioner's involvement is there in the present case. He submits that during investigation, it Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 has come that a red color i10 car has been used in criminal activities and this i10 red car belongs to the present petitioner. In this regard, the evidence has come in different paragraphs including paragraph 138 of the case diary. The recovery has also been made from the house of the petitioner on confessional statement of the petitioner as well as of the other accused persons and they consistently said that the money is basically the looted money.

20. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined to grant bail to the petitioner. Therefore, the bail application of the petitioner of Criminal Miscellaneous No.15509 of 2024 is hereby rejected.

Criminal Miscellaneous No.20658 of 2024

21. The petitioner of Criminal Miscellaneous No.20658 of 2024 is apprehending arrest in a case registered for the offences punishable in connection with in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Sections 392, 395, 120B and 412 of the I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

22. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 that the petitioner is a lady and the persons who have seen the occurrence disclosed that at the time of bank dacoity, there were only four male persons and those males are aged about 20-25 years.

23. Counsel also submits that the name of the petitioner has figured in this case only due to the reason that her husband is involved in Bank dacoity. She is completely innocent and her criminal antecedent is also clean, and therefore, anticipatory bail may be granted to her.

24. Learned APP for the State opposes the prayer for bail and it is true that from the content of F.I.R., female is not there at the time of occurrence, but it is also true that her husband is directly involved in commission of the crime and out of Rs.98 lakh, Rs.48 lakh has come from the petitioner by virtue of which she has purchased land in her name which has come in paragraphs 178 and 179 of the case diary. The copy of sale deed has also been recovered from the possession of the petitioner.

25. In the present facts and circumstances, this Court is not inclined to grant anticipatory bail to the petitioner, therefore the bail application of the petitioner of Criminal Miscellaneous No.20658 of 2024 is hereby rejected.

26. However, trial court is directed to consider the Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 regular bail application of the petitioner, if she surrenders within 6 weeks from today and prays for regular bail, then trial court shall pass order without being prejudice of the present order preferably on the same day considering the provisions laid down in the Cr.P.C.

Criminal Miscellaneous No.21381 of 2024

27. Learned senior counsel Mr. Yogesh Chandra Verma for the petitioner and learned A.P.P. for the State are present.

28. The petitioner of Criminal Miscellaneous No.21381 of 2024 seeks regular bail in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Section 392 of the I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

29. Learned senior counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that the recovery of about Rs.3 lakh and odd of looted money has alleged to be recovered from the possession of the petitioner, but the petitioner has neither been identified in the CCTV camera nor he was put on T.I.P. nor the recovered money was put on T.I.P. As such, counsel submits that in such type of offences, without confirmation of identification of the accused or property in the T.I.P., no person can be kept in custody. Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024

30. Counsel further submits that antecedent of the petitioner is clean and he is in custody since 31.08.2023 and chargesheet has already been submitted in this case.

31. Learned counsel for the State opposes the prayer for bail and submits that from the allegation made in the F.I.R., it become crystal clear that the robbers have snatched not only looted money but also DVR of CCTV camera of the Bank.

32. Counsel further submits that it is true that the CCTV of the Bank has been taken away with them, but the route from where they crossed, there are different CCTV cameras and during investigation great effort has been made by police team of 11 members and they have basically searched almost all CCTV cameras and identified that the petitioner and others, who were involved in this crime and he was identified in the CCTV camera which begins from paragraph 91 of the case diary. The petitioner was identified in the CCTV i.e. on paragraph 95 of the case diary. The recovery of money has been made from the confessional statement of the petitioner as well as confessional statement of the other accused persons which are tallied and corroborated with each other.

33. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 to grant bail to the petitioner. Therefore, the bail application of the petitioner of Criminal Miscellaneous No.21381 of 2024 is hereby rejected.

Criminal Miscellaneous No.25875 of 2024.

34. The petitioner of Criminal Miscellaneous No.25875 of 2024 seeks regular bail in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Section 392 of the I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

35. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that the F.I.R. has been lodged against four unknown accused persons and in the entire case diary, there is not a single whisper against him save and except paragraph 17 of the supplementary case diary in which co-accused, namely, Manish Kumar has disclosed that he has collected arms from the petitioner.

36. Counsel submits that there is no allegation of robbery against him, but Arms Act is there which has not been recovered from his possession. As such, neither ingredient of section 392 of I.P.C. nor ingredient of Arms Act is attached so far as the present petitioner is concerned.

37. Counsel for the petitioner submits that petitioner is in custody since 03.12.2023 having clean antecedent. Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024

38. Learned counsel for the State opposes the prayer for bail and submits that as per investigation, it is the petitioner who has provided the arms. Though there is no other material against him that he has involved in the commission of robbery.

39. In the present facts and circumstances of this case and the submissions made, let the petitioner of Criminal Miscellaneous No.25875 of 2024 above named, be granted bail, but only after framing of charge, if not framed, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two

sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Lalganj P.S. Case No.270 of 2023, subject to the following conditions as laid down under Section 437(3) of Cr.P.C.

Criminal Miscellaneous No.26319 of 2024.

40. The petitioner of Criminal Miscellaneous No. 26319 of 2024 seeks regular bail in connection with Lalganj P.S. Case No. 270 of 2023 lodged under Section 392 of the I.P.C. read with Sections 25(1-b)a and 35 of the Arms Act.

41. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that nothing has been recovered from the house of the petitioner. The petitioner has neither been seen in the CCTV footage nor Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 any of the witnesses have disclosed against him that he has involved in the commission of the dacoity or riding on motorcycle or sell or obtained arms or using vehicle. He submits that the petitioner is completely innocent and only on apprehension, his name has figured in this case.

42. Counsel submits that from the impugned order, the only material which has come against him is that the booty was alleged to be distributed among the criminals at the house of the petitioner.

43. Counsel for the petitioner submits that petitioner is in custody since 03.12.2023 having clean antecedent.

44. Learned counsel for the State opposes the prayer for bail and submits that as per the rejection order, the only allegation is that the booty has been distributed among the criminals at his house, but nothing has been recovered from his house.

45. In the present facts and circumstances of this case and upon considering the petitioner's clean antecedent, let the petitioner of Criminal Miscellaneous No. 26319 of 2024, above named, be granted bail, but only after framing of charge, if not framed, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to Patna High Court CR. MISC. No.83560 of 2023(7) dt.19-07-2024 the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Lalganj P.S. Case No.270 of 2023, subject to the following conditions as laid down under Section 437(3) of Cr.P.C.

(Dr. Anshuman, J.) Prakashmani/-

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