

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12529 of 2015

Arising Out of PS.Case No. -36 Year- 2012 Thana -CHUTIA SAHAYAK District- SASARAM
(ROHTAS)

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1. Bacharu Paswan Son of Basant Paswan, Resident of village-
Yadunathpur, P.S.- Chutiya, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Jha

For the Opposite Party/s : Mr. Abhay Kr. Roy(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 08-07-2015 Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor for the State.

Petitioner is in jail custody since 24.09.2012 in a case
registered under section 302/34 of the Indian Penal Code and 27 of
the Arms Act and earlier the prayer for bail of the petitioner was
twice rejected by this Court.

It would appear from the impugned order that the
petitioner was put on trial and charge against him was framed on
25.09.2013 but in spite of issuance of summons,ailable warrant,
nonailable warrant as well as D.O letter to higher police
officials, not a single prosecution witness was produced to be
examined nor any execution report was submitted before the court

below.

It is a serious case of murder which is said to have been committed by a person, who carries criminal antecedent of four cases and admittedly, the aforesaid person is lodged as under trial prisoner in jail and is facing trial before the court but in spite of issuance of processes against the witnesses the police officials are not taking interest to execute the process and to produce the witnesses before the trial court. It is a serious matter of laxity of the prosecution as well as police administration.

In the aforesaid circumstance, I am not inclined to grant privilege of bail to the petitioner and accordingly, his prayer for bail in connection with session trial no.45 of 2013 arising out of Chutiya P.S.Case No. 36 of 2012 pending in the court of 2nd Additional Sessions Judge, Rohtas at Sasaram is again rejected.

However, copy of this order be sent to Director General of Police, Bihar, Patna with direction to him to ensure the presence of witnesses of the above stated case before the trial court within a period of three months so that trial court could conclude the trial of the petitioner with the period of six months as expected by the trial court itself.

It is made clear that if the prosecution case fails due to non examination of the prosecution witnesses the entire

responsibility shall go on the shoulder of prosecution as well as police agency.

(Hemant Kumar Srivastava, J)

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