

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50714 of 2014

Arising Out of PS.Case No. -539 Year- 2011 Thana -MADHEPURA District- MADHEPURA

=====

Ranbir Kumar @ Chhotu S/o Bhupendra Yadav @ Bhudhan R/o village -
Sahugarh (Katiya) Tola Diwani, P.S. + District - Madhepura

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Adv.

For the Opposite Party/s : Mr. Parmanand Kumar (APP)

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 09-09-2015 The records have been placed along with the explanation of

Mr. Prabhu Dayal Gupta, Additional District & Sessions Judge-1st,

Madhepura in compliance of the order of this Court dated

12.08.2015.

This Court while rejecting the prayer for bail of the

petitioner vide order dated 07.10.2013 in Criminal Miscellaneous

No. 15742 of 2013, had recorded as follows:-

“Heard learned counsel for the parties.

*Having regard to the fact that the petitioner faces
prosecution for offences under Sections 307 and other allied
provisions of the Indian Penal Code and that the fire arm
injury caused by the petitioner has been found to be
substantiated in course of investigation and in the injury
report of the son of the informant, this Court is not inclined to
grant bail to the petitioner for the present specially when he is
in custody only for last seven months (from 06.03.2013).*

*This Court is also not impressed with the
submission of learned Counsel for the petitioner that there is a
case and counter case inasmuch as in the counter case there is
no injury found on any other persons including the petitioner
nor there is any thing to show that the prosecution party was
armed and had sought to be inflict any injury of the equal
nature which was found to have been caused by the petitioner.*

*The prayer for bail of the petitioner is, accordingly,
rejected.*

However, the trial court is directed to ensure that the trial of the petitioner is expedited and concluded within a period of one year from the date of receipt of this order. Happen it be so that the trial of the petitioner is not concluded within a period of one year, the petitioner will have liberty to move initially the trial court which then will have to record reasons for not concluding the trial within the time frame as fixed in this order and only thereafter the petitioner may move for renewing his prayer for bail before this Court.”
(underlining for emphasis)

Subsequently, the petitioner had moved for grant of bail before the trial Court. Mr. Prabhu Dayal Gupta, Additional District & Sessions Judge 1st, Madhepura had passed the following order on 27.11.2014:-

“Petition for regular bail filed on behalf of the aforementioned petitioner in connection with Madhepura P.S. Case No. 539/2011 u/ss. 447, 341, 323, 307, 379, 504, 34 of the Indian Penal Code, pressed today for hearing.

Heard Sri Sunil Kumar Singh, learned counsel for the petitioner as well as Sri S.K. Sinha, learned P.P.I/C for the State.

Learned counsel for the petitioner submits that the petitioner is in custody since-06.03.2013. The petitioner has not committed any offence as alleged in the FIR. He has falsely been implicated in this case due to enmity and grudge. No case under the aforesaid Sections is made out against the petitioner in any way. There is case and counter case, i.e. Complaint Case No. 1095/2011. Moreover, no explanation has been given regarding inordinate delay in lodging the FIR as the occurrence is alleged to have taken place on 16.12.11, and the reporting on 18.12.11. The petitioner is a student having no criminal history at all, and he is in prison for the last more than one and half-years. So, lenient and sympathetic view may be taken in the matter of bail.

On the other hand, the learned P.P.I/C vehemently opposed the prayer for bail, since, he is the prime accused of this case.

Perused the case record as well as Case Diary. In this case, FIR was lodged by Kalanand Yadav S/o Late Sahdeo Yadav u/ss. 447, 341, 323, 307, 379, 504, 34 of the Indian Penal Code against seven accused persons including the petitioner, and in short, the allegation against the petitioner is of firing shot, which hit into the abdomen of the informant, namely, Bimal



Kumar, who fell to the ground and became senseless. Soon thereafter, Bimal Kumar brought to Sadar Hospital, Madhepura from where to Saharsa for better treatment. The occurrence took place due to land dispute. The petitioner is specifically named in the FIR and he is in custody since-06.03.13. The investigation has been completed and the charge-sheet has been submitted u/ss. 447/504/326/307/34 of the Indian Penal Code against Ranvir Kumar @ Chhotu (petitioner), Nityanand Yadav @ Gholat, Gajendra Yadav. On perusal of Case Diary, paras-3,5 (P.O.), 7, 14, 15, 32, 43 (Injury-Report), 49, 55, 135 etc. do support the allegations prima facie against the petitioner. The Doctor concerned found the injury over the persons of injured Bimal Kumar-Grievous. The bail of this petitioner has been rejected upto Hon'ble High Court Patna vide order dated-07.10.13 passed in Criminal Miscellaneous No. 15742 of 2013 with certain observation as "However, the trial court is directed to ensure that the trial of the petitioner is expedited and concluded within a period of one year from the date of receipt of the order. Happened be so that the trial of the petitioner is not concluded within a period of one year, the petitioner will have liberty to move initially the trial Court which then will have record reasons for not concluding the trial within the time frame as fixed in this order and only thereafter the petitioner may move for renewing his prayer for bail before this Court."

Considering the facts and circumstances of the case, I am not inclined to allow bail to petitioner. Accordingly, bail petition filed on behalf of the petitioner stands rejected."

Accordingly, when the bail petition was filed by the petitioner, this Court had passed an order dated 12.08.2015, which for the sake of clarity and convenience is quoted hereinbelow:-

"Before parting with, this Court will fail in its duty if it does not call for an explanation as with regard to disobedience on the part of Mr. Prabhu Dayal Gupta, Addl. Sessions Judge Ist, Madhepura, who, while passing his order dated 27.11.2014, has completely defied the direction given by this Court in the order dated 07.10.2013. Let an explanation be accordingly called for from the aforementioned judicial officer as to why he should not be subjected to an appropriate disciplinary action."

(underlining for emphasis)

Mr. Gupta has submitted his explanation in his letter no. 189/2015 dated 26.08.2015, kept at "Flag-A", which is quoted hereinbelow:-

From

PRABHU DAYAL GUPTA
Addl. District & Sessions Judge 1st,

To,

The Assistant Registrar,
High Court of Judicature at Patna,
PATNA.

Reference:- Submission of explanation in compliance of Hon'ble Court's Order dated-12.08.2015, passed in Criminal Miscellaneous No. 50714 of 2014.

Dated, Madhepura 26th day of August, 2015.

Sir,

Most humbly and respectfully, at the very outset, I want to beg apology to say some kind words with a view to submit my explanation as I have received showcause explanation of Hon'ble Court's contained in order dated 12.08.2015 passed in Criminal Miscellaneous No. 50714 of 2014, I humbly submit in a pitiable manner my apology before your Lordship that an order dated-27.11.2014 was passed by me in regular bail vide B.P. No. 700/2014 (Ranbir Kumar @ Chhotu v. The State of Bihar), U/s 439 Cr.P.C. The record of said Bail Petition was received to this court on transfer on 15.11.2014 from the court of learned Sessions Judge, Madhepura.

Further, to submit your Lordship, during passing an order dated 27.11.2014, I could not assign reason satisfactorily in such order as observed by your honour in Criminal Miscellaneous No. 15742 of 2013, for which, I feel regret heartily. And so forth, I would like to submit your Lordship, that I have mentioned the Hon'ble Court's observation in my order dated-27.11.2014 passed in B.P. No. 700/s2014 only keeping in view of drawing attention of learned C.J.M. Madhepura to act upon for the same as per order dated-07.10.2013 passed in Criminal Miscellaneous No. 15742 of 2013 so that the case may be committed for expeditious trial in the Sessions court at the earliest, and shortly later, an extract copy of order dated-27.11.2014 was sent to the Court of learned C.J.M., Madhepura for needful, where the case is still pending for commitment to the court of learned Sessions Judge, Madhepura.

Further, I humbly submit before his Lordships, if any dereliction has happened on my part to pass perceive order dated-27.11.2014 clearly your delinquent, may kindly be pardoned to me.

Further, once again, I beg to pardon from his Lordship with prayer to accept my abovenmaed explanation by pouring down pity of rain upon me as deem.

I, therefore, request you to kindly press my explanation before Hon'ble Court for kind consideration and needful.

And for this act of kindness, I shall be highly grateful to you.

Yours faithfully
(PRABHU DAYAL GUPTA)
Addl. District & Sessions
Judge 1st, Madhepura."

(underlining for emphasis)

As would be evident there is hardly any explanation on the part of Mr. Gupta as with regard to the recording of reasons for not concluding the trial within the time frame fixed by this Court in its order dated 27.10.2013. Not a word has been said by Mr. Gupta as to why he had failed in recording the reasons for not concluding the trial within the time limit fixed in the order dated 07.10.2013 in Criminal Miscellaneous No. 15742 of 2013. All that infact he has said in his explanation that the case was still pending for commitment before the learned Sessions Judge, Madhepura. As would be evidenced even this much was not indicated by him in the order dated 27.11.2013 passed by Mr. Prabhu Dayal Gupta, Additional District & Sessions Judge-I, Madhepura in his aforesaid order dated 27.10.2013 and therefore, there would be no difficulty in coming to the conclusion that Mr. Prabhu Dayal Gupta had completely failed to comply the directions given by this Court in the order dated 07.10.2013.

It is in this background and in such a situation that that this Court now has to consider unconditional apology given by Mr. Gupta.

As a matter of fact in view of their being no acceptable explanation this Court was inclined to direct for initiation of departmental proceeding against Mr. Gupta but then taking a lenient view of the matter that this seems to be his first of such misconduct as submitted by him in his explanation tendering unqualified apology, this Court would direct that a warning should be recorded in his ACR, for being prompt and watchful in future in making compliance of the directions given in the judicial orders.

With the aforesaid observations and directions this matter relating to Mr. Prabhu Dayal Gupta is dropped.

Let the records of this case be, accordingly consigned.

Let a copy of this order be sent to the Registrar General of this Court as also to Mr. Prabhu Dayal Gupta, Additional District & Sessions Judge-1st, Madhepura.

(Mihir Kumar Jha, J)

Rishi/Ranjan-

U		T	
---	--	---	--