

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 36502 of 2014

Arising out of P.S. Case No. - 237 Year - 2013 Thana - NANHPUR District - SITAMARHI

Rishikesh Chaudhary, Son of Late Bishwanath Chaudhary, Resident of
Village - Raipur, P.S. - Nanpur, District - Sitamarhi

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

With

Criminal Miscellaneous No. 43617 of 2014

Arising out of P.S. Case No. - 237 Year - 2013 Thana - NANHPUR District - SITAMARHI

Vijay Bhagat, Son of Narayan Bhagat @ Ram Narayan Bhagat, Resident of
Village - Raipur, P.S. - Nanpur, District - Sitamarhi

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

(In Cr.Misc. No.36502 of 2014)

For the Petitioner : Mr. Girish Chandra Jha, Advocate.

For the State : Mr. Ashok Kumar, A.P.P.

(In Cr.Misc. No.43617 of 2014)

For the Petitioner : Mr. Pushpendra Kumar Singh, Advocate.

For the State : Mr. Anuradha Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL ORDER

5 23-09-2015 Heard learned counsel for the petitioners and learned
counsel for the State.

Two bail petitions are being heard together and disposed
of by this common order as the two bail petitions arise in
connection with Nanpur P.S. Case No. 237 of 2013 registered
under Sections 366(A) and 376/34 of the Indian Penal Code.

Earlier the prayer for bail of the petitioners was rejected by

this Court vide order dated 18.04.2014 passed in Cr. Misc. No. 49894 of 2013 along with Cr. Misc. No. 470 of 2014.

Perused the report. It is reported that the case is likely to be concluded within the six months if the prosecution has co-operate the court. However, the observation made by the Presiding Officer, “if the prosecution has co-operate the court, the case is likely to be concluded within the six months” is horrible as if the Presiding Officer is not in control of the case and is incapable to ensure the attendance of the witnesses or procure the process issued by him get executed. However, it is for the trial court to ensure the attendance of the witnesses by due process of law.

Hence, the trial court is directed to ensure the attendance of the witnesses by taking coercive steps as per the procedure prescribed under the Cr.P.C Police Manual. As per report, it is apparent that victim had already been examined and now rest of the witnesses is yet to be examined. As such, the trial court is directed to issue processes against the witnesses through the Superintendent of Police, Sitamarhi and if the Superintendent of Police, Sitamarhi not respected to process issued and service report and execution report is not received, then the trial court shall proceed in accordance with law against the erring officer for non-compliance of the order. Further if the summon has been

served and witnesses have not turned up then the trial court should be smart to ensure the attendance of the witnesses or take action in accordance with law otherwise there is no meaning of the order passed for issuance of processes.

Hence, the trial court is also directed to ensure the attendance of the witnesses so that the trial must be concluded within six months showing no mercy of the process for ensure attendance of the witnesses and must take steps against the authority concerned in accordance with law to ensure the attendance of the witnesses and taking steps against the person who will not abide the order without sufficient ground under Cr.P.C. I hope that trial court shall ensure the attendance of the witnesses and conclude the trial.

However, it may be noted if the trial will not conclude within stipulated period then authority concern shall fix responsible for the laches and trial court shall take step against the concern authority.

However, in this connection the Superintendent of Police, Sitamarhi is also directed to ensure the service of summon or execution of warrant issued against the witnesses and to ensure attendance of witnesses.

Let a copy of order be sent to Superintendent of Police,

Sitamarhi as well as the Court concerned.

With these observations, two bail petitions are disposed

of.

m.p.

(Gopal Prasad, J)

