

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8610 of 2016

Arising Out of PS.Case No. -21 Year- 1997 Thana -MANSAHI District- KATIHAR

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1. Shankar Sah S/o Yadu Sah
2. Yuvraj Rishi S/o Late Sarfu Rishi Both R/o village - Chhoti Bathana,
P.S. Mansahi, District - Katihar

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 16-03-2016

Heard the counsel for the petitioners.

No one has appeared on behalf of the State.

This is the third attempt of the petitioners to seek bail in Mansahi P.S. Case No. 21 of 1997 (S.T. No. 277 of 2014), registered under Section 302/34 of the Indian Penal Code.

Considering the allegations attributed to the petitioners, their prayer for bail was rejected by this Court on 28.05.2014. The second application of the petitioners was considered and rejected by this Court on 15.05.2015 (Annexure-3), however, granting the petitioners liberty to move for bail if remaining prosecution witnesses are not examined within five months. In the light of the liberty so granted, the present application is filed.

The counsel for the petitioners submitted that the petitioners are in custody since 22.06.2013. From order dated

15.05.2015 (Annexure-3), it appears that they had absconded for some years. Referring to the order-sheet of the Trial Court, it has been submitted that no fresh witness on behalf of the prosecution has been produced and examined.

A status report was called for from the Trial Court which is kept at flag 'P' from perusal whereof, it appears out of eight charge sheet witnesses five PWs have already been examined and steps have been taken to examine the rest of the PWs. It is stated that the petitioners are in custody and regularly appearing in Court on the date(s) fixed by the Trial Court.

Considering the facts and circumstances of the case as also the period of their incarceration, this Court while declining the relief, dispose of this application by the following orders:

The Trial Court shall endeavour to examine the remaining prosecution witnesses and the State shall cooperate in all respect in doing so, within three months from the date of receipt/communication of this order, failing which the petitioners shall be released on bail on furnishing bail bonds of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of learned Additional District Judge III, Katihar in Mansahi P.S. Case No. 21 of 1997 (S.T. No. 277/2014) on condition that one of the bailors shall be his/their own/close family member. The

petitioners shall appear on each date fixed at the trial. In case of default in appearance on two consecutive dates, the trial court shall have liberty to cancel his bail bonds.

(Kishore Kumar Mandal, J)

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