

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20405 of 2016

Arising Out of PS.Case No. -104 Year- 2013 Thana -KAUAKOL District- NAWADA

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Bhushan Chauhan, Son of Ram Briksh Chauhan, Resident of Village Pali
P.S. Kawakol District Nawada.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mrs. Veena Kumari Jaiswal, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 11-05-2016

Heard.

The prayer for bail of the petitioner with respect to a criminal prosecution registered under Section 304(B)/34 of the Indian Penal Code was earlier rejected by this Court vide order dated 04.03.2015 passed in Cr.Misc.No.1070 of 2015 (Annexure-1) with an observation that if the trial of the petitioner is not concluded within one year from the date of framing of charge, then he shall be at liberty to renew his prayer for bail.

Learned counsel appearing on behalf of the petitioner submits that, in the light of the aforesaid order dated 04.03.2015, the petitioner moved again for grant of bail before the learned trial court itself, but that has been rejected by the impugned order dated 11.04.2016.

From the reading of the impugned order, it appears that the charge against the petitioner was framed on 31.03.2015 and four witnesses have been examined till 11.06.2015, but thereafter not even a single witness has been examined till date. By referring to the deposition of the aforesaid four witnesses,

which have been brought on record as Annexure-3 series, it is submitted that none of the PWs have supported the prosecution version against the petitioner. Therefore, according to him, there is no possibility of conviction of petitioner in the present case. It is also highlighted that the petitioner is in judicial custody since 30.09.2014.

Learned Addl.P.P. appearing on behalf of the State, though has opposed the prayer for bail, but has not been able to dispute the aforesaid submissions.

Be that as it may, taking into consideration the period of incarceration of the petitioner and also taking into consideration the observations made by this Court in the order dated 04.03.2015 (Annexure-1) and further taking into consideration the fact that despite direction issued by this Court the trial of the petitioner has not been concluded, without there being any fault on his part, let the above named petitioner be enlarged on bail on furnishing bail bond of Rs. 25,000/- with two sureties of the like amount each to the satisfaction of learned A.D.J.-III, Nawada in connection with Sessions Trial No.47 of 2015, arising out of Kowakol P.S. Case No.104 of 2013, subject to the condition that:

- (A) One of the bailors shall be government servant
- (B) other bailor shall be either family member or close relation of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,
- (C) if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner,

and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned;

(D) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every date, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Prasad Verma, J)

Arvind/-

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