

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40412 of 2015

Arising Out of PS.Case No. -83 Year- 2012 Thana -RAGHOPUR District- SUPAUL

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Kailu Mian @ Md. Kailu Mian @ Md. Kalim S/o Md. Alijan, resident of
Village Gol Bazar, P.S. Raghopur, District Supaul.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madhu Prasun, Advocate

For the Opposite Party/s : Mr. Rajeev Nayan, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 13-04-2016

Heard the parties.

The prayer for bail made on behalf of the petitioner in a criminal prosecution originally registered under Sections 363 and 365 of the Indian Penal Code, in which subsequently chargesheet was submitted under Section 364A of the Indian Penal Code, was earlier rejected by this Court by order dated 08.10.2013 passed in Cr.Misc.No. 36163 of 2013 (Annexure-1) with an observation that if the trial of the petitioner is not concluded within a period of one year from the date of receipt/production of a copy of that order, then he shall be at liberty to renew his prayer for bail before the learned trial court itself.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is in judicial custody since 27.08.2012 and despite observation/direction issued by this Court, the trial of the petitioner has not been concluded till date.

By order dated 16.12.2015 a report was called for from the trial court about the stage of the trial of the petitioner as also within what time the trial of the petitioner is likely to be

concluded. Unfortunately, the learned trial Judge has submitted a very sketchy report, which has been kept at Flag 'A'. He has not indicated in the report dated 28.01.2016 that within what time the trial of the petitioner is likely to be concluded. Apparently, this is not a true compliance by the trial court of the order dated 16.12.2015 passed by this Court.

The learned 2nd Additional Sessions Judge, Supaul, who has submitted the aforesaid report kept at Flag 'A', is hereby cautioned that he should be careful in future while submitting the report in compliance of the judicial order passed by this Court.

Now; coming to the prayer of the petitioner, it is apparent from the materials available on the record that the trial of the petitioner is not likely to be concluded in near future.

In above view of the matter and taking into consideration the period of incarceration of the petitioner and also taking into consideration the observation made by this Court in the order dated 08.10.2013 passed in Cr.Misc.No. 36163 of 2013 (Annexure-1), this Court is inclined to accede to the prayer made on behalf of the petitioner for grant of bail.

let the above named petitioner be released on bail on furnishing bail bond of Rs.25,000/-(Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge II, Supaul in connection with Sessions Trial No. 19 of 2013 arising out of Raghapur P.S.Case No. 83 of 2012, subject to the following conditions:

- (A) one of the bailors must be a government servant.
- (B) other bailor must be a 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 an opportunity of hearing to all concerned, and

(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 dates, 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.

Let this order be communicated to the Presiding Officer, who has submitted the report in compliance of the order of this Court, which has been kept at Flag 'A' for information and for being careful in future while complying the order of this Court.

Let a copy of this order be separately forwarded to the learned District and Sessions Judge, Supaul for doing the needful.

(Birendra Prasad Verma, J)

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