

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1336 of 2016

Arising Out of PS.Case No. -115 Year- 2013 Thana -BIBHUTIPUR District- SAMASTIPUR

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1. GAURAV KUMAR @ SHUBHAM @ GAURAV KUMAR ROY Son
of Late Girish Kumar Rai, resident of Village- Belsandi Tara, P.S.-
Bibhutipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Kumar Singh

For the Opposite Party/s : Mr. P.N.Pandit (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

7 22-06-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner has renewed his prayer for bail in
connection with Sessions Trial No. 172 of 2014 arising out of
Bibhutipur P.S.Case No. 115 of 2013 registered under Sections
302/34 of the Indian Penal Code and 27 of the Arms Act pending
in the court of Additional Sessions Judge, Rosera.

It is contended that the petitioner is in custody since
01.01.2014 and his earlier application for bail was rejected by this
Court vide order dated 04.03.2015 passed in Cr.Misc. No. 51733
of 2014 and thereafter there is no progress in the case.

In view of the submission made at the Bar, a report
was called for from the trial court about the stage of the trial vide



order dated 06.04.2016. In compliance with the aforesaid order, the trial court reported that though charges were framed against the petitioner on 24th June, 2015, no witness has been examined on behalf of the prosecution till date. On receipt of such report from the trial court, a report was called for from the District Magistrate and the Superintendent of Police, Samastipur as to why the witnesses are not being produced in the court during trial, vide order dated 27.04.2016.

The report dated 25th May, 2016 submitted by the District Magistrate, Samastipur, vide letter no. 1619, would indicate that after framing of charge the learned Sub Divisional Judicial Magistrate, Hajipur (Vaishali) had sent a requisition for production of the accused in connection with Goroul P.S. Case No. 282 of 2012 and on such requisition the petitioner was sent to Hajipur (Vaishali) on 11th September, 2015 under the order passed by the trial court and since then the petitioner is in Hajipur Jail. The report would further indicate that, vide order dated 2nd May, 2016, the trial court has directed the Jail Superintendent, Vaishali (Hajipur) to produce the petitioner on 2nd June, 2016. The District Magistrate, Samastipur has also directed the Superintendent of Police, Samastipur to produce the witnesses expeditiously during trial, vide letter no. 1614 dated 25.05.2016.



At the cost of repetition, it is recorded that on merits the case of the petitioner has already been rejected by this Court. According to the prosecution case, the petitioner is alleged to have shot at the son of the informant as a result of which he died. The daughters-in-law of the informant, namely, Manju Devi and Sunita Devi are eye-witnesses to the occurrence of murder. They have corroborated the informant's version in their statement recorded under Section 161(3) of the Code of Criminal Procedure.

In view of the entirety of the facts and circumstances of the case, I find no reason to take a different view of the matter. Accordingly, the application is rejected.

The trial court is hereby directed to ensure that the trial of the case must proceed expeditiously. The District Magistrate and the Superintendent of Police, Samastipur are also directed to ensure production of witnesses during trial without any delay. In case the petitioner has not yet been brought to Samastipur Jail from Hajipur Jail, the trial court must take all necessary steps in this regard so that the petitioner is immediately brought to Samastipur.

In case the trial is not concluded within one year from the date of production of the petitioner from Hajipur Jail, the petitioner would be at liberty to renew his prayer for bail before

the court below itself.

Let a copy of this order be transmitted to the District Magistrate and the Superintendent of Police, Samastipur by Fax forthwith.

(Ashwani Kumar Singh, J)

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