

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38025 of 2016

Arising Out of PS.Case No. -238 Year- 2012 Thana -BRAHMPUR District- BUXAR

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Pinku Singh, S/o Harendra Singh, R/o Village- Raghunathpur, P.S.
Brahmpur, District Buxar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv.
Mr.Rajeev Ranjan, Adv.

For the Opposite Party/s : Mr. Umanath Mishra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 05-10-2016 Heard Mr.Rajesh Kumar, the learned counsel appearing on behalf of the petitioner and Mr. Umanath Mishra, the learned Addl. P.P. appearing on behalf of the State.

The prayer for bail of the present petitioner with respect to a criminal prosecution registered under Section 302/34 of the Indian Penal Code as also under Section 27 of the Arms Act was earlier rejected by this Bench by an order dated 28.05.2015 passed in Cr.Misc.No.14705 of 2015, as contained in Annexure-1 to the present bail petition, on the ground that the petitioner is the main assailant and he is alleged to have fired upon the temple of the deceased, as a result of which deceased died instantaneously on the spot. However, while rejecting the prayer for bail of the petitioner by the aforesaid order dated 28.05.2015, a direction was issued to the learned trial court to make all endeavours to conclude the trial of the petitioner at an early date preferably within a period of nine months from the date of receipt/production of a copy of the said order; and a liberty was granted to the petitioner to renew his

prayer for bail, if his trial is not concluded, without there being any fault on his part, within the aforesaid period of nine months.

The learned counsel appearing on behalf of the petitioner submits that, despite the observations and directions made by this Court by the aforesaid order dated 28.05.2015, the trial of the petitioner has not progressed in view of the fact that the petitioner is suffering from schizophrenia and he is a person of unsound mind. It is also contended that because of his unsoundness, the trial court has also come to a conclusion that he is not in a position to defend himself in the criminal trial pending against him. In support of his above contentions, he has placed reliance on an order dated 07.05.2016 (Annexure-7) passed by the learned trial court. It is next contended that the mother as also the full brother of the petitioner are prepared to give their undertaking for providing best possible treatment to the petitioner, if he is released on bail, and the moment the petitioner ceases to be of unsound mind and recovers from his illness, he shall be produced before the learned trial court for taking up the trial of the petitioner to its logical conclusion. It is highlighted that the petitioner is in judicial custody since 25.08.2012 i.e. more than four years and in the present condition of mental health of the petitioner his trial cannot proceed. Therefore, it is prayed that the petitioner may be directed to be released on bail in terms of Section 330 Cr.P.C.

The learned Addl. P.P. appearing on behalf of the State, by referring to the report submitted by the learned trial court in compliance of the order dated 07.09.2016 passed by this Bench, which has been kept at Flag "A", submits that the petitioner is suffering from mental ailments and his trial has not progressed. He further submitted that in view of the report of the learned trial

court and in view of the facts pleaded on behalf of the petitioner his case may be considered under the provisions of Section 328 to 331 Cr.P.C.

After having heard the parties and taking into consideration the entire factual matrices, as noticed above, this Court is of the opinion that, though the petitioner is the main assailant of the deceased, but taking into consideration the fact that he is in judicial custody since 25.08.2012 and further taking into consideration the fact that because of his mental illness the trial of the petitioner has not at all progressed and as per the opinion of the learned trial court the petitioner is not in a position to defend himself at present, he should be released on bail in view of the provisions contained in Section 330 Cr.P.C., but with certain conditions. Accordingly, it is directed that the petitioner shall be released on bail on furnishing bail bonds of Rs. 25,000/- with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-V, Buxar in connection with S.Tr.No.182 of 2013 arising out of Brahmpur P.S. Case No. 238 of 2012, subject to the conditions that:

(A) Only the mother as also the full brother of the petitioner shall be his bailors,

(B) the mother as also the full brother of the petitioner shall file their affidavits giving their undertaking before the learned trial court that the petitioner shall be provided best possible medical treatment for recovery from his mental illness; and once the petitioner recovers from his mental illness or he ceases to be mentally ill, the petitioner shall be produced before the learned trial court so that



the trial of the petitioner is taken to its logical conclusion in accordance with law;

(C) the mother and the full brother of the petitioner shall be filing reports on regular interval, as per direction of the learned trial court, showing progress in his mental ailment and

(D) the petitioner shall abide by all the reasonable conditions, which may be imposed by the learned trial court for his release on bail in terms of the present order.

(Birendra Prasad Verma, J)

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