

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7930 of 2016

Arising Out of PS.Case No. -209 Year- 2013 Thana -AGAMKUAN District- PATNA

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Sudhir Kumar Yadav @ Sudhir Kumar Son of Sri Raj Deo Singh resident
of village - Kothia, P.S. Didarganj, District - Patna

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukund Kumar

For the Opposite Party/s : Mr. S.Dayal(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-04-2016 The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Sections 302 and 120B/34 of the IPC and Section 27 of the Arms Act.

Though, the earlier bail application of the petitioner was rejected by a co-ordinate Bench of this Court but the matter has been placed under the heading 'For Admission' before this Court in view of the administrative order of Hon'ble the Acting Chief Justice dated 07.04.2016 since the concerned Bench is not available due to medical exigency.

The prosecution case as per the informant Anju Kumari is that on 26.06.2013 at 8.45 AM the husband of the informant went to see the construction work of warehouse near Pahadi by his own vehicle along with driver Sikandar. At 10 AM the informant



repeatedly called her husband but he did not receive the call when the informant called the driver who said that her husband died after receiving gunshot injury. Thereafter, the informant along with her brother-in-law immediately went to the place of occurrence when she found her husband dead leading to registration of Agamkua P.S. Case No. 209 of 2013 under Sections 302 and 120B/34 of the IPC and 27 of the Arms Act where suspicion was raised against Sanrakshita Devi, Praveen Kumar and other unknown persons.

It is submitted by learned counsel for the petitioner that the petitioner was not named in the FIR, his name subsequently sprang up on the statement of others as he was seen fleeing away from the place of occurrence when it was discovered that the assailant was one Dhiraj Kumar who said to have fired causing death of the husband of the informant. A co-ordinate Bench of this Court while rejecting the earlier prayer of bail of the petitioner vide order dated 30.01.2015 passed in Cr. Misc. No. 4169 of 2015 recorded that except the fact that the petitioner was found fleeing away, there is no material on record against the petitioner and also directed the learned Addl. Sessions Judge, Patna to expedite the trial and conclude the same within a period of eight months from the date of receipt/production of the copy of order. The liberty was

also given to the petitioner to renew the prayer for bail firstly before the trial court if the trial is not concluded within stipulated period, which reads as follows:-

“However, if the trial is not concluded within the stipulated period the petitioner may renew his prayer for bail firstly before the trial court.”

The impugned order reflects that learned Sessions Judge did not bother to go through the earlier order of this Court and has not recorded any finding with regard to present stage of trial or reasons for its non-conclusion. However, learned counsel for the petitioner submits that out of 26 chargesheeted witnesses, only nine witnesses have been examined and there is no likelihood of trial being concluded in near future. A statement has been made in para 3 of the petition that the petitioner has no criminal antecedent. The petitioner is in custody since 03.08.2013.

It is submitted by learned counsel for the informant that prayer for bail with regard to other co-accused has been rejected but has not disputed this fact that out of 26 chargesheeted witnesses only 9 have been examined, though, the informant is not inclined to examine four chargesheeted witnesses.

Considering the fact that the petitioner was not named in the FIR, his name subsequently sprang up during investigation

as the person who was found fleeing away from the place of occurrence and abovementioned liberty given to the petitioner by a co-ordinate bench of this Court while rejecting the earlier prayer for bail, let the above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Addl. District & Sessions Judge-III, Patna in connection with Agam Kuan P.S. Case No. 209 of 2013.

The learned trial court will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions.

(Dinesh Kumar Singh, J)

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