

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38844 of 2016

Arising Out of PS.Case No. -64 Year- 2014 Thana -RUPASPUR District- PATNA

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Raja Sahni @ Gunja son of Ram Sewak Sahni, resident of village- Baluahi
Bus Stand P.S & District Khagaria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Dr. Kumar Uday Pratap, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 30-11-2016

Heard the parties.

The prayer for bail made on behalf of the petitioner with respect to a criminal prosecution registered under Sections 363 and 366A of the Indian Penal Code was earlier rejected by this Bench by order dated 26.5.2015 passed in Cr. Misc. No. 11934 of 2015, as contained in Annexure-1, with an observation that if the trial of the petitioner is not concluded within a period of nine months from the date of framing of charge, then he shall be at liberty to renew his prayer for bail.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is not named in the F.I.R. as an accused and he is in judicial custody since 25.6.2014 i.e. more than two years. He further submits that charge against the petitioner was framed on 9.11.2015, but despite order and direction issued by this Court, trial of the petitioner has not been concluded till date.

This matter was heard earlier on different dates and lastly on 26.10.2016. On that date it was submitted by the learned Additional P.P. that out of five chargesheet named witnesses, three

witnesses have already been examined, and only two more witnesses are yet to be examined, for which a date was fixed on 22nd November, 2016.

In view of the aforesaid submissions made by the learned Additional P.P. appearing on behalf of the State of Bihar, the present matter was adjourned for today with an observation that if in the meantime, all the prosecution witnesses are not examined, then this Court would consider the prayer of the petitioner for his release on bail even by putting some hard condition. The learned Additional P.P. was directed to file a further affidavit on the next date fixed.

Today when the matter has been taken up, the learned Additional Public Prosecutor appearing on behalf of the State has not filed any affidavit in the light of the aforesaid order dated 26.10.2016, but has submitted that the aforesaid two witnesses could not be examined on the date fixed and the trial of the petitioner is still pending on account of non-examination of the remaining witnesses.

The learned counsel appearing on behalf of the petitioner submits that in the aforesaid factual matrices and in view of the observation made earlier, the petitioner deserves to be released on bail.

After having heard the parties and taking into consideration the entire factual matrices as also the observations made earlier, this Court is inclined to accede to the prayer made on behalf of the petitioner for his release on bail.

Accordingly, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 25,000/- with two sureties of the like amount each to the satisfaction of the

learned A.D.J.-VI, Danapur in connection with S.Tr. No. 558 of 2015 arising out of Rupaspur P.S. Case No. 64 of 2014, subject to the conditions that both the bailors must be the government servants and subject to further conditions that :,

(A) 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 the 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

(B) 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 bonds of the petitioner.

(Birendra Prasad Verma, J)

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