

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5055 of 2016

Arising Out of PS.Case No. -2 Year- 2011 Thana -BIND District- NALANDA (BIHARSHARIFF)

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Ram Janam Dharhi, Son of Late Bisheshwar Dharhi, Resident of Village-
Manachak, P.S.- Sarmera, District -Nalanda.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Devi Das Srivastava, Advocate

For the Opposite Party/s : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 02-03-2016

By way of the present application under Sections 439 and 440 of the Code of Criminal Procedure, the petitioner has renewed his prayer for bail in connection with Sessions Trial No. 390 of 2011 arising out of Bind P.S. Case No. 2 of 2011 registered under Section 302 of the Indian Penal Code and 27 of the Arms Act.

The prayer for bail of the petitioner was earlier rejected twice by this Court vide orders dated 05.06.2014 and 15.04.2015 passed in Cr. Misc. No. 18884 of 2014 and Cr. Misc. No. 7856 of 2015 respectively.

It has been contended that though the petitioner is in

custody since 03.02.2011, the prosecution has failed to produce its witnesses. During trial, altogether seven witnesses have been examined so far and the remaining charge-sheet witnesses are yet to be examined. The last witness was examined in this case about two years back and since then despite all efforts taken by the court, the witnesses are not turning up.

Regard being had to the fact that the petitioner is in custody for over five years as an under-trial prisoner and the prosecution has failed to produced its witnesses, the petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-V, Bihar Sharif at Nalanda in connection with S.T. No. 390 of 2011 arising out of Bind P.S. Case No. 2 of 2011 subject to the following conditions that:-

- (a) The petitioner shall not influence the witnesses or tamper with any document;
- (b) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court;
- (c) the petitioner shall not do any act prejudicial to the interest of the prosecution;

- (d) the petitioner shall abide by the above conditions scrupulously and in case of violation of any of the conditions, the prosecution would be at liberty to move this Court for cancellation of bail; and
- (e) One of the sureties must be a Government servant/elected people’s representative of Panchayat/ Municipality; and the other one shall be a close relative.

(Ashwani Kumar Singh, J.)

Sanjeet/-

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