

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.45344 of 2016**

Arising Out of PS.Case No. -130 Year- 2016 Thana -RAMPUR District- GAYA

1. Rocky @ Rakesh Ranjan Yadav, Son of Bindi Yadav  
resident of House No. 51, A.P. Colony, P.S. Rampur,  
District - Gaya

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

**Appearance :**

For the Petitioner : Mr. Y. V. Giri, Sr. Advocate  
Mr. Ashish Giri

For the Opposite Party : Mr. Dilip Kumar Sinha

**CORAM: HONOURABLE THE CHIEF JUSTICE**

ORAL ORDER

2 19-10-2016

This is an application, made under Section 439 of the Code of Criminal Procedure, seeking bail for the accused-petitioner, namely, Rocky @ Rakesh Ranjan Yadav, in connection with Rampur Police Station Case No. 130 of 2016 (Sessions Trial No. 195 of 2016), under Sections 341/323/307/302/427/212/201/120B/34 of the Indian Penal Code and Section 27 of the Arms Act, 1959.

Perused the above application and materials on record.

Heard Mr. Y. V. Giri, learned Senior Counsel, appearing on behalf of the petitioner, and Mr. Dilip Kumar Sinha, learned Additional Public Prosecutor, appearing on behalf of the State.



A Court, while granting or refusing bail, must assign the reasons for its decision. The reasons assigned, however, must not be an elaborate discussion of the materials collected so that the accused is not prejudiced and his case must not appear to have been prejudged. There is, therefore, a need, on the part of the court, to maintain a balance between the need to assign reasons for refusing or granting bail, on the one hand, and the caution to be applied, on the other, to ensure that the assignment of reasons should not be so elaborate that the case of the accused appears to have been prejudged. **[See, *Jayanta Kumar Ghosh and Another v. State of Assam and others* reported in (2010) 6 GLR 727]**

The other aspect of law, while considering application for bail is that even when *charge-sheet* is submitted against an accused, he does not lose his right to be presumed innocent by the Court until the time he is proved guilty beyond reasonable doubt. The presumption of innocence, thus, runs in favour of even such a person, who may be accused of a heinous crime. The gravity of an offence, allegedly committed by any accused, cannot be the sole reason for rejecting his bail application unless concomitant circumstances so warrant.

Coupled with the above, there is subtle, yet firm

distinction between an application for bail made by an accused during the investigation of case *vis-à-vis* an accused, who is facing trial on the basis of the charges framed against him.

While considering the question as to whether an accused, who is facing trial, shall or shall not be released on bail, the Court must remember that the detention of an accused in custody, during trial, is not for the purpose of punishment before trial and, therefore, detention in custody, during trial, cannot be permitted as a measure of punishment, but must be warranted upon the facts and attending circumstances of the given case and the law relevant thereto.

Broadly speaking, the factors, governing refusal or grant of bail upon filing of *charge-sheet* are: (i) whether the accused would be available for trial; (ii) whether there are reasonable ground(s) to apprehend that the accused will tamper with the evidence by inducing, coercing or intimidating the persons acquainted with the facts of the case from not revealing the truth before the Court. This does not mean, I must hasten to add, that a bare application made by the informant/victim that the accused has been intimidating/threatening would be sufficient to reject the application for bail unless credible circumstances exit in

support of such an application.

Mr. Giri, learned Senior Counsel, has submitted, on the basis of the statements of the eye-witnesses to the alleged occurrence, recorded under Section 164 of the Code of Criminal Procedure, 1973, that no one has seen the petitioner or any other co-accused opening fire, which hit the deceased. This factual aspect has not been disputed by the prosecution.

Mr. Giri has also submitted that the co-accused, Rajesh Kumar, has been granted bail by this Court by order, dated 05.10.2016, passed in Criminal Misc. No. 30804 of 2016. Mr. Giri, learned Senior Counsel, has further submitted that *charge sheet* having been submitted, the case has been committed to the Court of Sessions and, thus, there is neither any likelihood of tampering with the evidence by the petitioner nor is there any reasonable possibility of the accused-petitioner running away or not being available for trial inasmuch as he has roots in the society.

In view of the above submissions, advanced on behalf of the petitioner, which have substance, the fact that the accused above-named has been in custody since 11.05.2016 in connection with the case aforementioned and though *charge sheet* has been submitted, perusal of the



materials available on record does not reveal such incriminating materials, which would warrant further detention of the accused-petitioner in custody, and in view also of the fact that the perusal of the materials does not reveal that the accused-petitioner's liberty on bail would adversely affect his trial, it is, in the interest of justice, hereby directed that the accused above-named shall be released on bail of Rs. 10,000/- with two sureties, each of the like amount, subject to the satisfaction of the learned 9<sup>th</sup> Additional Sessions Judge, Gaya, in connection with Rampur Police Station Case No. 130 of 2016 (Sessions Trial No. 195 of 2016).

This direction for bail is further subject to the condition that the accused above-named 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 facts to the Court or to any police officer or tamper with the evidence and shall appear, in the learned Court below, as may be directed.

Considering the nature of the prosecution's case, this Court is of the view that the trial of the present case needs to be expeditiously concluded and it is, therefore, directed that the trial be expedited.

In terms of the above observations and

directions, this bail application shall stand disposed of.

**(I.A. Ansari, CJ.)**

Prabhakar Anand/-

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