

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12656 of 2016

Arising Out of PS. Case No.-319 Year-2013 Thana- GAYGHAT District- Muzaffarpur

Vijendra Singh @ Madhurendra Singh, Son of Late Kapildeo Singh, Resident
of Village - Barhmotra, P.S. Gaighat, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 15-11-2017 Heard learned Counsel for the petitioner and learned APP
for the State.

The petitioner being, the husband of the victim, has renewed the prayer for bail in a case registered for the offences punishable under sections 304B/34 of the I.P.C.

Accusation is of killing the sister of the informant after three years of marriage for non-fulfillment of dowry demand. Considering the fact that the post-mortem report suggests cause of death as strangulation, this Court rejected the prayer for bail of the petitioner vide order dated 12.01.2015, passed in Criminal Miscellaneous No.33334/2014 with a liberty to the petitioner to renew the prayer for bail if the trial is not concluded within one year. The relevant portion of the order aforementioned reads as under :-



“Heard learned Counsels for the petitioner and the State.

The petitioner being the husband of the victim is languishing in custody since 18.12.2013 in a case registered for the offences punishable under Sections 304B/34 of the Indian Penal Code.

The accusation is of killing the sister of the informant after three years of marriage.

Considering the fact that postmortem report suggests the cause of death as strangulation, this Court is not inclined to grant bail to the petitioner in connection with S.T. No.305 of 2014 arising out of Gaighat P.S. Case No. 319 of 2013, pending in the Court of learned 2nd Adhoc Addl. Sessions Judge, Muzaffarpur.

This application is, accordingly, dismissed. However, if the trial is not concluded within one year, the petitioner may renew his prayer for bail.”

It is submitted by learned Counsel for the petitioner that the petitioner is languishing in custody since 18.12.2013 and deliberately the prosecution is not examining the witnesses. Only nine witnesses have been examined and rest five have not been examined till date.

A report has been received from the Senior Superintendent of Police, Muzaffarpur, through letter no.176, dated 31.10.2017 which suggests that PW-1 was examined on 22.08.2014, PW-2 on 10.03.2015, PWs-3, 4 and 5 on 11.04.2017 and PW- 6 on 03.05.2017, PW-7 on 06.05.2017 and PWs. 8 and 9 on 08.09.2017, which further reflects that the next date for



examination of the rest of the witnesses is 01.11.2017, but it is submitted by learned Counsel for the petitioner that on 01.11.2017 no witness has been examined.

Learned APP appearing on behalf of the State the thrust of accusation is against the petitioner.

Considering the fact that earlier prayer for bail of the petitioner was rejected vide order dated 12.01.2015, with a liberty to the petitioner to renew the prayer for bail if the trial is not concluded within a period of one year and it appears that during the said period of one year no witness was examined, the present bail application was filed on 15.03.2016 with a prayer for bail, when this Court vide order dated 15.02.2017 and 22.03.2017 and 06.09.2017, directed the trial Court as well as the Sr. Superintendent of Police, Muzaffarpur, for getting the trial concluded, but the prosecution failed to examine the remaining witnesses for no reason. Hence, this Court is constrained to allow the prayer for bail of the petitioner in view of the callous attitude of the prosecution agency and in view of the liberty given to the petitioner vide order dated 12.01.2015, passed in Criminal Miscellaneous No. 33334 of 2014 to renew the prayer for bail, if the trial is not concluded within one year.

Accordingly, the above named petitioner is directed to



be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge, Muzaffarpur, in connection with S.Tr. No. 305 of 2014, arising out of Gaighat P.S. Case No. 319 of 2013, subject to condition to remain physically present before the trial Court on each and every date till its conclusion and in case of making default on two consecutive dates without giving any reasonable explanation, learned trial Court will be at liberty to cancel the bail bonds of the petitioner.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

