# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Criminal Miscellaneous No. 986 of 2015**

Arising Out of PS.Case No. -106 Year- 2013 Thana -SIKANDRA District- JAMUI

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Md. Jahid Mian Son of Md. Zulfikar Mian, Resident of Village - Markma, P. S. - Sikandra, District - Jamui.

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Director, RINPAS, Kanke, Ranchi, Jharkhand.
3. The Medical Superintendent, RINPAS Kanke, Ranchi, Jharkhand

.... .... Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Manoj Kumar, Advocate |
| For the State | : | Mr. Bhanu Pratap Singh, Advocate |
| For the Informant | : | Mr. Sajid Salim Khan, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

ORAL JUDGMENT

**Date: 23-05-2017**

Heard learned counsel for the petitioner; Mr. Bhanu Pratap Singh, learned A.P.P. for the State and learned counsel for the informant.

2. The petitioner seeks bail in Sikandra P.S. Case No. 106 of 2013 dated 13.05.2013 instituted under Sections 307/324/452/460/109/147/148/149 of the Indian Penal Code and 27 of the Arms Act.

3. This is the second attempt of the petitioner for bail as earlier such prayer was rejected on 02.07.2014 in Cr. Misc. No. 10010 of 2014.

4. There have been many turns and twists in the case.

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Initially, in the present application, provisional bail was sought by the petitioner on the ground that he has been referred for further treatment and was suffering from depressive psychosis and thus, the Court granted indulgence and allowed him privilege of provisional bail by order dated 14.04.2015 with a direction that he should surrender before 16.05.2015. Thereafter, another Interlocutory Application was filed for extension of the provisional bail and by order dated 13.05.2015, the provisional bail was further extended and he was directed to surrender latest by 4th July, 2015. Again, an Interlocutory Application was filed for further extending the provisional bail. When objection was raised on behalf of learned counsel for the informant that the petitioner has been moving in the village as if he was normal, the Court had directed the Director, RINPAS, Ranchi to submit a report. The report indicated that he was suffering from mental illness and was advised to continue the medicine and regular checkup every two months and that he showed gradual improvement in his condition. The Court had also observed in its order dated 28.09.2016 that the petitioner had undertaken not to object to the framing of charges but on 18.01.2017, it was noted that till then charges had not been framed and thus, the Court had directed the petitioner to surrender before the Court below latest by 30th January, 2017. The petitioner surrendered on 27.01.2017 and

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charges were framed against him. Earlier, the trial was bifurcated as far as the petitioner is concerned as charges had been framed against other co-accused. However, the Court has been informed that both the trials of the rest of the accused and the petitioner is going simultaneously before the same Court and common dates are fixed, which is also the requirement of law. On the last occasion, the informant had submitted that despite all the accused being family members, being 7 in number, including the petitioner, on every date on some technical pretext like non appearance of one of the parties, the trial has still not proceeded after framing of charge. On such submission, the Court had asked learned counsel for the petitioner as to whether the other family members i.e., brothers and father of the petitioner were ready to give undertaking that they shall cooperate in the trial and not seek adjournment and upon instructions from one of the brothers who was present in Court, learned counsel had submitted that a supplementary affidavit to this effect shall be filed. Today, affidavit has been filed without giving any undertaking and the deponent is the cousin brother-in-law of the petitioner.

5. The case is of the year 2013 and there is direct allegation of firing by the petitioner on the chest of the injured which is corroborated by the injury report and he was treated at PMCH and the petitioner has been identified as the person who had

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fired.

6. Learned counsel for the petitioner submitted that the time of occurrence and the time of injury report do not tally, which give rise to the suspicion that the same was manufactured. He further submitted that the injured in the case has not been examined during investigation which also creates doubt with regard to the veracity of the allegation. Learned counsel further submitted that there is also counter case for the same incident in which there is allegation of filing and injury and in which all the accused persons from the informant side have been granted bail.

7. Learned A.P.P. and learned counsel for the informant submitted that charges having been framed in January and till date the trial not proceeding i.e., almost four months having elapsed, is clear indication of the dilatory tactics by the accused in the present case. It was further submitted that the petitioner, for a minor ailment which did not require him to be outside jail, has derived benefit for a long time and now the trial not being allowed to proceed, the plan is to somehow defeat the cause of justice and not allow the trial to be concluded.

8. Having considered the rival contentions, this Court finds that after the rejection of the earlier prayer for bail on 02.07.2014, no mitigating circumstances except for passage of time

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has been brought to the notice of the Court which may require reconsideration. Moreover, for the substantive portion of the period i.e., after order dated 15.04.2015 till 27.01.2017, the petitioner was on provisional bail and still charges not being framed is a glaring instance to indicate that the privilege of letting him out of jail shall result in delay in the trial which has been proved from the conduct of the petitioner in the present case as detailed above.

9. For the reasons aforesaid and also for the reasons recorded in the earlier orders, as also in the order dated 13.05.2013 in Cr. Misc. No. 10010 of 2014, the Court is not inclined to grant bail to the petitioner.

10. Accordingly, the application stands dismissed.

11. However, the Court below is directed to expedite the trial.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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