

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3168 of 2017

Arising Out of PS.Case No. -44 Year- 2014 Thana -GAYA MUFFSIL District- GAYA

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1. Jitendra Kumar @ Jitendra Bind S/o- Sri Govind Bind Resident of
Village- Baradih, P.S. Muffasil, Distt. Gaya.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

For the Opposite Party/s : Mr. Sri Atul Chandra

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

3 28-06-2017 The matter was on board and the same has been taken
up on the slip filed by learned counsel for the petitioner.

Heard learned counsels for the petitioner and the State.

The petitioner being husband of the victim has renewed
his prayer for bail in a case registered for the offences punishable
under Sections 304B,201 and 120B of the Indian Penal Code.

The accusation is of killing the daughter of the
informant after two years of marriage for non-fulfillment of dowry
demands.

It is submitted by learned counsel for the petitioner that
the victim was suffering from tuberculosis and due to said illness
she died. The petitioner is languishing in custody since 21.1.2014.

Earlier prayer of the petitioner for bail was rejected,



vide order dated 4.3.2015, passed in Cr. Misc. No. 42782 of 2014, with a direction to the learned court below to expedite the trial. Thereafter, the petitioner renewed the prayer for bail, vide Cr. Misc. No. 39218 of 2015. The said application was also dismissed vide order dated 18.5.2016 with a liberty to the learned court below to release the petitioner on bail if the trial is not concluded within six months without there being any laches on the part of the petitioner. The learned trial court was directed to conclude the trial expeditiously without giving any adjournment to either side. Relevant portion of the order reads as follows:

“The application is disposed of with liberty to the petitioner that if the trial is not concluded within six months for no laches on the part of the petitioner, petitioner will be released on bail.

It is expected from the learned trial court to conclude the trial expeditiously without giving adjournment to either side.”

Admittedly, the trial has not been concluded within six months and there was no laches on the part of the petitioner because he is in custody but the learned trial court dismissed the application of the petitioner for bail on the ground that the period of six months will deem to have been commenced from the date on which the records were transmitted to the court of learned



Additional Sessions Judge-IV, Gaya.

It is further submitted that the learned PP has also made a wrong submission for calculating the period of six months for concluding the trial. It is further submitted that in view of the order of this court dated 18.5.2016, the petitioner ought to have been released on 17.11.2016.

Mr. J.N. Thakur, learned APP for the State submits that the learned trial court could not understand the purport of the order dated 18.5.2016.

Having considered the rival submissions of the parties, this court is of the view that the order dated 18.5.2016, passed in Cr. Misc. No. 39218 of 2015 is very clear that the petitioner was to be released on bail if the trial will not be concluded within six months without any laches on the part of the petitioner.

This court vide order dated 10.5.2017, called for a report from the learned trial court with regard to the period within which the trial is likely to be concluded. The report of the learned trial court at Flag – A, dated 18.5.2017, suggests that the senior police officer was directed to produce witness on 7.4.2016 but despite processes being issued, no witness has been examined. The report does not suggest that there was any laches on the part of the petitioner in non-examination of witnesses. Hence, this court is



dismayed that not only learned PP misinterpreted the order of this court dated 18.5.2016 but the learned trial court absolutely failed to understand the purport of the order.

Since the petitioner is in custody since 21.1.2014, no witness has been examined till date and in view of the liberty given by this court vide order dated 18.5.2016, let the above named petitioner 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 Additional Sessions Judge- IV, Gaya in connection with S.T. No. 48 of 2015 arising out of Mufassil P.S. Case No. 44 of 2014.

The learned trial court shall be at liberty to cancel the bail bonds of the petitioner in case the petitioner defaults in appearance before the Court without any reasonable cause on two consecutive occasions during trial.

(Dinesh Kumar Singh, J)

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