

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2835 of 2018

Arising Out of PS.Case No. -131 Year- 2010 Thana -MAHESI District- EASTCHAMPARAN
(MOTIHARI)

=====

Pawan Kumar Upadhyay @ Sonu S/o Awadh Kishore Upadhyay, R/o
village- Sulsabad, P.S.- Mehsi, District- East Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.III, Advocate.

For the Opposite Party/s : Mr. Nand Kishore Pd, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH**

ORAL ORDER

6 26-09-2018 Heard learned counsel for the petitioner and learned
counsel for the State and perused the report dated 18.04.2018
submitted by the learned 2nd Additional Session Judge, East
Champaran, Motihari in compliance with the order dated
11.04.2018.

From perusal of the report, it would appear that out
of eleven charge-sheet witnesses, three have been examined and
two have been given up by the prosecution. The petitioner is in
custody since 31.01.2013. Though the application for bail of the
petitioner was rejected on merits earlier by this Court, an under
trial prisoner cannot be kept in confinement for an indefinite
period. While rejecting the application for bail of the petitioner



earlier, this Court vide order dated 11.01.2017 passed in Cr. Misc. No. 35821 of 2016 had observed that in case the trial is not concluded within nine months from the date of framing of charge, the petitioner would be at liberty to renew his prayer for bail. After that, charges were framed against the petitioner on 07.02.2017 and since the trial did not conclude within nine months, he moved for bail before the court below, but his prayer was rejected vide order dated 18.11.2017.

In view of the observations made by this Court earlier and inordinate delay caused in production of witnesses on behalf of the prosecution, the petitioner is directed to be released on bail on furnishing bail bond of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Session Judge, Motihari, East Champaran in connection with Sessions Trial No. 700 of 2014 arising out of Mehsi P.S. Case No. 131 of 2010 subject to the following conditions:-

- (a) The petitioner shall not influence the witnesses or tamper with any evidence;
- (b) The petitioner shall not leave the limits of India without prior permission of the trial court;
- (c) The petitioner shall not directly or indirectly make



any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade him from disclosing such fact to the court;

- (d) The petitioner shall not do any act prejudicial to the interest of the prosecution;
- (e) 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 before the court below for cancellation of his bail;
- (f) One of the sureties must be a government servant/elected peoples representative of Panchayat/ Municipality and the other one shall be a close relative.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

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