

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26623 of 2018

Arising Out of PS.Case No. -14 Year- 2016 Thana -BITHAN BAZAR District- SAMASTIPUR

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1. Kundan Singh @ Kundan Kumar Singh, S/o Sadanand Singh, R/o Vill. -
Hasanpur, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry

For the Opposite Party/s : Smt. Sangeeta Sharma

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 05-09-2018

Heard learned counsel for the parties.

According to FIR, the petitioner fired at Birendra Yadav causing injury at the temporal region. Thereafter, the petitioner and his associates resorted to indiscriminate firing causing death of Birendra Yadav and Birju Yadav. Petitioner is in custody since 16.02.2016.

Earlier prayer for bail to the petitioner was refused on 08.09.2016 in Cr. Misc. No. 36044 of 2016 by a Bench of this Court with following observation “having regard to the nature of incriminating materials available on record coupled with the antecedents of the accused-petitioner, this Court is of the view that at this stage, the accused-petitioner, above named, cannot be allowed to go on bail. Accordingly, prayer was refused.”

Thereafter, the petitioner renewed the prayer before



this Court in Cr. Misc. No. 17877 of 2017 and by order dated 04.07.2017, this Court refused the prayer for bail with a direction to the learned trial court to conclude the trial within nine months from the date of receipt of a copy of the order. Thereafter, this is the third attempt of the petitioner.

By order dated 02.05.2018, the matter was adjourned for four months on the submission of learned counsel for the informant that trial is likely to be concluded within four months. The trial could not conclude due to laches of the State Machinery. In the circumstances, the informant was compelled to move this Court in Cr.W.J.C. No. 21 of 2018 wherein the State-authorities were directed to produce prosecution witnesses.

The informant was further directed to produce entire order sheet of the court below. After order of the Writ Court, to proceed with the trial on day to day basis, to substantiate the reason for delay disposal of the trial, if the trial is not concluded within the aforesaid period.

Learned counsel for the petitioner submits that in spite of full cooperation on the part of the petitioner (he is already in custody), the trial has not concluded. The informant has not produced the copy of order sheet as directed rather learned counsel for the informant is in possession a counterfoil of the application



for certified copy of the aforesaid order sheet.

It has been informed that prosecution evidence has already closed on 03.08.2018, thereafter the accused persons have filed transfer petition for transfer of the trial with intent to delay the disposal of the case.

Considering the entire facts of this case above, I am not inclined to enlarge the petitioner on bail. Hence, prayer for bail is refused with direction to the learned trial Judge to conclude the trial within a period of four months from the date of receipt/production of a copy of this order by proceeding on day to day basis. If the trial would not progress due to delaying tactics adopted by the accused persons this time frame would not be applicable.

(Birendra Kumar, J)

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