

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53276 of 2017

Arising Out of PS.Case No. -184 Year- 2014 Thana -MAIRWA District- SIWAN

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1. Tribhuwan Shahi @ Tribhuwan Pratap Shahi S/o Late Narayan Ji Shahi
@ Ram Narayan Shahi, R/o Village- Langarpura, P.S.- Mairwa, District-
Siwan.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra

For the Opposite Party/s : Mr. Sri Anand Mohan Prasad Mehta

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

6 03-01-2018 Heard both sides.

The petitioner seeks bail in Mairwa P.S. Case No. 184 of 2014, registered for the offence punishable under Sections 147, 149, 148, 307, 506 of the Indian Penal Code and Section 27 of the Arms Act. Subsequently, Section 302 of the Indian Penal Code was also added.

The prayer for bail of the petitioner was firstly rejected on 30.04.2015 passed in Criminal Miscellaneous No. 8178 of 2015. Thereafter, the petitioner again moved for grant of bail in Criminal Miscellaneous No. 24342 of 2015 and the same was dismissed as withdrawn on 22.05.2015. The petitioner again moved for grant of bail in Criminal Miscellaneous No. 12874 of



2016. The prayer for bail of the petitioner was rejected on 28.09.2016 with a direction to the trial court to hold the trial on day to day basis and conclude the same within six months from the receipt of the aforesaid order. The Superintendent of Police was also directed to ensure the attendance of the witnesses in Sessions Trial No. 174 of 2015. When the trial was not concluded within six months, the petitioner again moved for grant of bail in Criminal Miscellaneous No. 18634 of 2017 and the same was also rejected with a direction to the trial court to conclude the trial within two months vide order dated 30.08.2017. But even then, the trial court could not be able to conclude the trial. The petitioner again filed this petition for grant of bail.

A report was called for from the court of the learned Additional Sessions Judge II, Siwan, who has reported that all the charge-sheeted witnesses have already been examined, but on the request of the prosecution, summons were issued to Dr. Pankaj Kumar and Dr. Arun Kumar Singh on 11.09.2017, but both the doctors have not been produced and the trial is still pending for their evidence.

Shri Ajay Kumar Thakur, learned counsel appearing on behalf of the petitioner submits that from perusal of the entire photo copy of the order-sheets, it would appear that after



examination of all the witnesses of the charge-sheet, the prosecution filed petition under Section 311 of the Cr.P.C. for examination of other witnesses, the same petition was rejected on 11.09.2017. The learned trial court again issued summons to Dr. Arun Kumar Singh of P.M.C.H, Patna and Dr. Pankaj Kumar, M.D. Forensic Department, P.M.C.H, Patna for their evidence, but, those two doctors have not yet been examined. The report of the learned Additional District & Sessions Judge II, Siwan also reveals that the case is still pending for the evidence of the prosecution witnesses. The petitioner is in jail since 07.09.2014 and other accused persons have already been granted bail.

On the other hand, learned A.P.P. for the State as well as the learned counsel appearing on behalf of the informant, vehemently opposed the prayer for bail.

On perusal of records, it appears that the prayer for bail of the petitioner was thrice rejected by this Court, but the trial court did not conclude the trial as directed by this Court for the reasons best known to him even after the examination of all the charge-sheeted witnesses. The trial court firstly dismissed the petition of the prosecution filed under Section 311 of the Cr.P.C, but by the same order on the petition of the prosecution, the trial court issued summons and non-bailable warrant of arrest against



Dr. Arun Kumar Singh and Dr. Pankaj Kumar and the trial is still pending for the evidence of those two doctors.

Considering the facts that the trial court has utterly failed to comply with the order of this Court and did not conclude the trial within time and the petitioner is in jail since more than three years, the petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the each amount to the satisfaction of the learned Additional District Judge-II, Siwan in connection with Mairwa P.S. Case No. 184 of 2014, subject to the condition that the petitioner shall be present on each and every date during course of trial and if the petitioner fails to appear on two consecutive dates without reasonable explanation, the learned trial court shall cancel the bail bond of the petitioner.

(Prabhat Kumar Jha, J)

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