

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 76638 of 2018

Arising Out of PS. Case No.-109 Year-2016 Thana- Rampur District- Gaya

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Kumar Sushant, Son of Arun Kumar Singh, Resident of House No. 171, A.P.
Colony, P.S. Rampur, Distt.-Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Sri Y.C.Verma, Sr.Adv.

Mr. Anuj Kumar, Adv.

For the Opposite Party/s : Mr. Ramchandra Sahani

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 20-02-2019 Heard Sri Y.C.Verma, learned senior counsel assisted
by Sri Anuj Kumar, learned counsel for the petitioner and
learned Addl. Public Prosecutor.

This is the 5th attempt for grant of bail on behalf of
petitioner.

Sri Verma, learned senior counsel for the petitioner
submits that it is true that petitioner is the husband of the
deceased, but fact remains that it was not a case under Section
304(B) of the Indian Penal Code. Alternatively, it has been
argued that while rejecting the prayer for bail on last occasion
i.e. on 04-04-2018 in Cr. Misc. No. 16925 of 2018, this Court
had recorded following observation:

***“The prayer for bail again stands dismissed.
However, considering the fact that petitioner is in***



custody since more than two years and charge has already been framed, while dismissing, it is desirable to observe that learned trial court and prosecution may take all steps so that the case may come to its logical end without unnecessary delay. It is clarified that as and when required by the trial court, the concerned Superintendent of Police shall ensure production of witnesses before the court below.

Let a copy of this order be sent to the concerned Superintendent of Police.”

He submits that even despite this direction, out of 15 prosecution witnesses, till date only 4 prosecution witnesses have been examined and now the trial has been withheld on the prayer of informant, who had filed a miscellaneous case. The petitioner is in custody since 4th of April, 2016 and as such, he submits that without any adequate progress, the petitioner may not be further detained in the custody.

Learned Addl. Public Prosecutor submits that once on merit, the prayer for bail was rejected, there is no reason to again consider the same prayer on merit, however; he has not disputed the fact that on behalf of the informant, a miscellaneous case was filed before the concerned District Judge and the informant had sought time before the trial court.

In this case, by order dated 30-01-2019, a report was called for from the court below, which has been received and kept at flag 'A'. The report contained in letter no. 98 dated



11-02-2019 makes it clear that out of 15 chargesheeted witnesses, 4 witnesses have already been examined and thereafter, summons have been issued for production of remaining witnesses. It is further evident that a petition was filed on behalf of the informant on 08-10-2018 seeking time till the disposal of the miscellaneous case i.e. Misc. Case No. 251 of 2018, which was pending in the court of learned District Judge, Gaya. It appears that informant or prosecution are not interested for early disposal of the case and as such, this Court is of the opinion that without expeditious disposal of the trial, the petitioner may not be detained further.

In view of facts and circumstances, particularly the report of the court below, there is no reason to further detain the petitioner.

Let the petitioner namely Kumar Sushant 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 District Judge – IIInd, Gaya in connection with Sessions Trial No. 58 of 2017/67 of 2017 (arising out of Rampur P.S. Case No. 109 of 2016), with condition that (i) one of the bailor must be blood relation of the petitioner and (ii) on each and every date during the trial, the petitioner shall remain



physically present before the trial court. In case of non-appearance of petitioner on two successive dates, without prior permission of the trial court, his bail-bond shall stand automatically cancelled.

(Rakesh Kumar, J.)

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