

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38049 of 2019**

Arising Out of PS. Case No.-314 Year-2005 Thana- JAHANABAD District- Jehanabad

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AJAY KANDU @ RAVIJEE @ AJAY KANU @ AJAY KUMAR, aged about 55 years, Male, Son of Late Fagu Prasad Resident of Village - Chauhar, P.S.- Karpi, District - Arwal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : M/s Krishna Pd. Singh, Sr. Advocate
Rakesh Singh

For the Opposite Party/s : Mr.Arun Kumar Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

5 04-12-2019 Supplementary affidavit is filed in light of order dated 27.11.2019. Let the supplementary affidavit filed on behalf of the petitioner be kept on record.

Heard learned counsel appearing for the petitioner as well as learned Additional Public Prosecutor for the State.

Petitioner is languishing in jail custody since 25.3.2008 in Jehanabad P.S. Case No. 314 of 2005 corresponding to Sessions Trial No. 358 of 2013 for the offences punishable under Sections 147, 148, 149, 333, 121, 307, 120B, 364, 224, 225, 302 of the Indian Penal Code, Section 27 of the Arms Act and Section 17 of the Criminal Law Amendment Act.

The petitioner has been made accused in infamous



case of Jehanabad jail break. Petitioner does have criminal antecedents of 42 cases. However, the report of learned Special Judge, Special Court, Model Central Jail, Beur, Patna, goes to show that after closure of prosecution and defence case in the year 2017, the argument in the case commenced but, subsequently, petition under Section 311 of the Code of Criminal Procedure was filed by the prosecution, which was disposed of by the learned trial court. However, again a petition under Section 311 of the Code of Criminal Procedure was filed on behalf of prosecution and the aforesaid petition is still pending for disposal. The report of learned Special Judge, further, goes to show that earlier one Sri Anjani Kumar, Advocate, was appointed Special Public Prosecutor to conduct the trial but he left the case in midway and, thereafter, after several months Sri Jai Prakash Singh, Advocate, was appointed Special Public Prosecutor to conduct the trial but he, too, left doing *Pairvi* and the report of trial court goes to show that up-til now, no Special Public Prosecutor has been appointed to conduct the trial of the petitioner.

Learned counsel appearing for petitioner submits that, no doubt, the petitioner was made accused in near about 42 cases but near about in 36 cases, the petitioner has already been



acquitted and so far as the position of the present case is concerned, not a single prosecution witness stated against the petitioner in course of trial and, therefore, it is obvious that there is nothing against the petitioner in the present case. He, further, submits that every citizen of this country has right of speedy disposal of his cases but, unfortunately, petitioner is languishing in jail custody for more than 11 years and the report of learned trial court reflects that there is no possibility of disposal of trial of the petitioner in near future.

On the other hand, learned Additional Public Prosecutor opposed the prayer submitting that the trial of the petitioner is on the verge of conclusion.

Having heard the above stated contentions, I went through the record as well as report of learned Special Public Prosecutor. The report of learned Special Judge itself speaks the approach of prosecution towards the trial of the petitioner because the Special Public Prosecutors appointed to conduct the trial left the trial in midway and up-till now, no Special Public Prosecutor has been appointed to conduct the trial. Furthermore, I find that prosecution and defence closed their evidences in the year 2017 and the arguments of both parties also commenced but all of a sudden, the prosecution filed



petition under Section 311 of the Code of Criminal Procedure twice and still on one petition no order has been passed. Therefore, it would appear from the aforesaid fact that there is no possibility of conclusion of trial of the petitioner in near future. Admittedly, the petitioner is in jail custody for more than 11 years and the evidence of prosecution witnesses have already been recorded. So far as criminal antecedents of the petitioner is concerned, no doubt, the petitioner was earlier made accused in near about 42 cases but, admittedly, he has been acquitted in 36 cases, therefore, considering the aforesaid facts and circumstances as well as submissions of the parties I think it proper to extend privilege of bail to the petitioner and, accordingly, petitioner, above named, is directed to 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 Special Judge, Special Court, Model Central Jail, Beur, Patna in connection with Jehanabad P.S. Case No. 314/2005 corresponding to Sessions Trial No. 358 of 2013 subject to condition that one of sureties must be wife of the petitioner and, furthermore, petitioner shall appear before Officer Incharge of Kotwali Police Station, Patna, on first week of each months till disposal of Sessions Trial No. 358/2013 and, furthermore,



petitioner shall appear before the trial court in person on each and every date till conclusion of his trial. It is made clear that if prosecution files any petition for cancellation of the bail of the petitioner before the trial court levelling any allegation against the petitioner, the trial court shall pass appropriate order on the petition of the prosecution after due and proper inquiry.

(Hemant Kumar Srivastava, J)

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