

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27005 of 2018

Arising Out of PS. Case No.-149 Year-2016 Thana- NAUGACHIA District- Bhagalpur

Ajit Yadav @ Sanjay Kumar Yadav @ Ajit Kumar, Son of Late Naresh Yadav,
Resident of Village Rasalpur, P.S. Naugachia, District Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Krishna Prasad Singh, Senior Advocate Mr. Pramod Kumar Thakur, Advocate Mr. Amrendra Kumar, Advocate
For the State	:	Mr. B.N. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

9 15-05-2019 Heard Mr. Krishna Prasad Singh, the learned Senior counsel appearing on behalf of the petitioner-Ajit Yadav @ Sanjay Kumar Yadav @ Ajit Kumar and Mr. B.N. Pandey, the learned Additional Public Prosecutor.

The petitioner seeks bail in Naugachia P.S. Case No.149 of 2016, corresponding to Sessions Trial No.5 of 2017, registered under Section 302 and other Sections of the Indian Penal Code as well as under Section 27 of the Arms Act.

The informant disclosed in her *fardbeyan* that on 20.08.2016 at about 7.15 in the morning, she was returning from her house to her *Basa*. Her brother-in-law, Vinod Yadav was also returning and he was ahead of the informant by 60 feet. When Vinod Yadav reached near the house of Shankar Yadav,



the criminals on five motorcycles came there and surrounded Vinod Yadav. All the criminals made indiscriminate firing. The informant identified Ajit Kumar, the petitioner, Sumit Kumar @ Rupesh Kumar, Rajeev Kumar, all sons of late Naresh Yadav, Sachin @ Sachcho Yadav, Pintu Singh, Saurabh Kumar Singh, Mankeshwar Singh @ Mantu Singh, Commando Rai, Chhotu Yadav, Kumodi Yadav, Arvind Yadav and Balkeshwar Singh @ Balo Singh amongst the criminals who made indiscriminate firing causing the death of Vinod Yadav on the spot.

Mr. Krishna Prasad Singh, the learned Senior counsel appearing on behalf of the petitioner submits that prayer for bail of the petitioner, Ajit Yadav @ Sanjay Kumar Yadav @ Ajit Kumar was rejected vide order dated 22.03.2017, passed in Cr. Misc. No.12405 of 2017 with a direction to the trial court to hold the trial on day-to-day basis and conclude the same within one year. The Superintendent of Police, Naugachia was also directed to ensure the attendance of all the prosecution witnesses of Naugachia P.S. Case No.149 of 2016, corresponding to Sessions Trial No.5 of 2017 in the court of 1st Additional Sessions Judge but till date two witnesses have been examined. It is further submitted that Mukesh Yadav, Dhananjay Kumar, Balkeshwar Singh and Chhotu Yadav @ Purushottam



Yadav have been granted bail during the course of trial. Mukesh Kumar @ Tuntun @ Rajvir @ Tuntun Yadav and Dhananjay Kumar were granted bail in Cr. Appeal (DB) No.1192 of 2017 and Cr. Appeal (DB) No.1360 of 2017. The petitioner is in jail since 23.11.2016. It is submitted that out of 12 named accused persons, Mankeshwar Singh, Commando Rai, Chhotu Yadav, Arvind Yadav, Kumodi Yadav and Balkeshwar Singh have been granted bail. The case of the petitioner stands on the same footing. A report was also called for from Additional District & Sessions Judge, Naugachia and the Superintendent of Police, Naugachia. The 2nd Additional District & Sessions Judge, who is in seisin of Sessions Trial No.5 of 2017, reported that the record of Sessions Trial No.5 of 2017 was received in his court on 11.06.2018. Out of 11 charge-sheet witnesses, only two witnesses were examined.

It appears that the learned Additional Sessions Judge in spite of the order of this Court did not hold the trial on day-to-day basis and passed perfunctory order adjourning the case without giving any direction to the prosecution to produce witnesses or take any coercive step for procuring the attendance of the witnesses. The Superintendent of Police, Naugachia also submitted report vide Letter No.1935, dated 02.04.2019. From



the report of the Superintendent of Police, Naugachia, it appears that the Superintendent of Police as well did not take any step for procuring the attendance of the witnesses in the court and stated that Rahul Yadav, Chhotu Yadav and others were granted bail by the Hon'ble Court. The report itself depicts gloomy picture that prosecuting agencies are in semble and there is no coherence in actions of the prosecuting agency resulting in inordinate delay of serious and heinous crimes such as murder. In the present case twelve named and some unknown accused made indiscriminate firing on brother-in-law of the informant killing him on the spot but for the reason best known to the prosecuting agencies, who from the inception of the trial, adopted a very casual and lackadaisical approach in pursuing the trial. Even the Superintendent of Police, Naugachia did not show any interest and this fact itself shows that the prosecution is not at all interested in speedy trial of the case.

Let this order be sent to the Director General of Police, Bihar and the Principal Secretary, Home for information and needful that such officer, who is unable to procure the attendance of the prosecution witnesses in court for speedy trial of the case, should not be posted in the district.

Considering the facts aforesaid and the fact that of



course the petitioner is also one of the accused, who is alleged to have made indiscriminate firing causing the death of Vinod Yadav but similarly situated many other accused persons have been granted bail, petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Naugachia in connection with Naugachia P.S. Case No.149 of 2016, corresponding to Sessions Trial No.05 of 2017.

(Prabhat Kumar Jha, J)

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