

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.68105 of 2018

Arising Out of PS. Case No.-96 Year-2013 Thana- GUTHANI District- Siwan

=====

Amarjeet Kushwaha son of Late Muneshwar Kushwaha, Resident of Village-
Khalwa, P.S. Nauthan, District- Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr.Arvind Kumar
For the State	:	Mr.Lalan Kumar
For the informant:		Mr. Vijay Kumar

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA

ORAL ORDER

4 13-02-2019 Supplementary affidavit is filed on behalf of the

petitioner. Let it be kept on record.

Heard learned counsel appearing for petitioner as well
as learned Addl. Public Prosecutor for State assisted by learned
counsel for the informant.

Learned counsel for the petitioner submits that earlier
this court while rejecting the bail prayer of the petitioner vide
order dated 04.10.2017 passed in Cr. Misc. No. 38835 of 2017
directed the trial court to expedite the trial of the petitioner
preferably, within nine months even by separating the trial of the
petitioner from the case of other accused and taking the same on
day to day basis and furthermore, this court granted liberty to
the petitioner to renew his prayer for bail, if his trial is not



concluded within above stated period of nine months. He, further, submits that more than nine months have already been elapsed but up till now, trial of the petitioner has not been concluded and the report of learned trial court goes to show that up till now, only three prosecution witnesses could be examined. He, submits, that no doubt, there is allegation that petitioner and two others opened fire on the deceased but admittedly, co-accused Lorik Ram and Satyadeo Ram, having similar allegation, have already been granted privilege of bail by different benches of this court whereas petitioner is cooling his heels behind the bar since long without any substantive progress in his trial.

On the other hand, learned Addl. Public Prosecutor assisted by learned counsel appearing for the informant opposes the prayer for bail submitting that it is a serious case of murder in which sophisticated firearms were used and the petitioner is said to have opened fire on the deceased. It is also submitted that petitioner does have criminal antecedent which is evident from para 3 of the petition.

The trial court has sought six months' more time for disposal of trial of the petitioner and the report of trial court goes to show that the trial of the petitioner has already



commenced but due to transfer of trial of the petitioner to special court, the delay was caused in conclusion of trial of the petitioner.

Considering the aforesaid facts and circumstances of the case as well as submissions of the parties, again, I am not inclined to release the petitioner on bail, at least, for present and accordingly, his prayer for bail in Special Case No. 51/2018 arising out of Guthani P.S. Case No. 96/2013 pending in court of Addl. Sessions Judge IX-cum- Special Judge Elected MP., MLA and MLC., Bihar Patna stands rejected.

However, the learned trial court must take effective steps for disposal of trial of the petitioner within the period as framed by the learned trial court itself. Furthermore, the informant must present his witnesses who are under his control before the trial court and the Superintendent of Police, Siwan must ensure the presence of prosecution witnesses before the trial court without any delay and as per requirement of the learned trial court. Furthermore, the learned trial court shall write letter to Superintendent of Police, Siwan fixing day for examination of the prosecution witnesses within a week from the date of receipt of this order and on the receipt of the letter of the trial court, the superintendent of Police, Siwan shall comply



with the letter of learned trial court without fail. Any laches or failure on the part of Superintendent of Police, Siwan shall be viewed seriously. However, it is made clear that if the trial court fails to conclude the trial of the petitioner without any fault of the defence within the above stated period of six months, the petitioner may renew his prayer for bail. In the aforesaid manner, this petition stands disposed of.

Let this order be communicated to learned trial court as well as Superintendent of Police, Siwan without any delay for needful.

(Hemant Kumar Srivastava, J)

s.hassan/-

U		T	
---	--	---	--

