

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.187 of 2020

Arising Out of PS. Case No.-197 Year-2019 Thana- SAHPUR District- Bhojpur

=====

Ram Bachan Yadav Son of Daroga Yadav Resident of Village - Chotki
Sahajauli, P.S.- Shahpur, Distt - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Harsh Singh, Adv.

For the Respondent/s : Mr.Damodar Prasad Tiwary, APP

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 25-06-2020 Heard learned counsel for the petitioner and learned
APP for the State

The instant application has been filed against the order dated 16.11.2019 passed in Shahpur P.S. Case No. 197 of 2019 by the learned Additional Chief Judicial Magistrate-I, Bhojpur at Ara, whereby the learned Magistrate was pleased to reject the application of the petitioner for grant of bail in terms of section 167(2) of the Code of Criminal Procedure.

The petitioner was a named accused in the FIR being Shahpur P.S. Case No. 197 of 2019 registered on 3.8.2019 for offence under sections 302, 307, 341, 324 and 326 of the Indian Penal Code.

It has been submitted by learned counsel for the petitioner that the petitioner was arrested on 3.8.2019 itself and



as on 1.11.2019 the petitioner had remained in judicial custody for 90 days, however, the investigation could not be completed and chargesheet was not filed in the case. The petitioner having remained in judicial custody for 105 days filed an application on 16.11.2019 praying for default bail in terms of section 167(2) of Code of Criminal Procedure (for short 'the Cr.P.C'). A report was called for by the Court from the office according to which chargesheet was filed in the case and as such, the learned Court below by the impugned order dated 16.11.2019 rejected the application for bail under sec 167(2) of the Cr.P.C. It is the contention on behalf of the petitioner that from perusal of the chargesheet, a copy of which has been brought on record as Annexure-2 to the petition, it would transpire that the same is dated 4.11.2019 i.e. of 12 days before the application of the petitioner. However, from perusal of page no.1 it would transpire that the same was put up before the learned Magistrate and was seen by him incidentally on 16.11.2019 itself. Thus, it is submitted that it is simply a case where the chargesheet was not available when the petition for bail under section 167(2) of the Cr.P.C. was filed but infact the same was called for and brought on record after filing of the application for default bail. It is only for this reason that while the chargesheet has been



dated or backdated as 4.11.2019, the same is put up and seen by the learned Magistrate on 16.11.2019. Learned counsel for the petitioner in support of his contention further relies on the judgment of the Hon'ble Supreme Court in the case of ***Rakesh Kumar Paul vs. State of Assam reported in (2017) 15 SCC 67*** and the order dated 11.3.2019 of this Court in Cr. Revision no. 124 of 2019 (*Bharat Rai & Ors. Vs. State of Bihar*).

The application for bail is opposed by learned APP for the State who submits that as the chargesheet had been received, the application for bail under section 167(2) Cr.P.C. was rightly rejected.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, what transpires from the order dated 16.11.2019 rejecting the petition under section 167(2) Cr.P.C. of the petitioner and the records of the case is that although the chargesheet is dated 4.11.2019, and the petition under sec 167(2) Cr.P.C. was filed on behalf of the petitioner (12 days thereafter) on 16.11.2019, admittedly the chargesheet was not on record. It is for this reason that after going through the record, the learned Court below called for a report from the office clerk. Thus, in view of the facts that the chargesheet had not been filed till filing of the



petition under section 167(2) of the Cr.P.C. together with the decision in the judgments cited on behalf of the petitioner, the Court finds merit in the submissions made on behalf of the petitioner and as such, the revision application is allowed and the Court is inclined to enlarge the petitioner on bail. The order dated 16.11.2019 passed in Shahpur P.S. Case no. 197 of 2019 passed by the learned A.C.J.M. I, Bhojpur at Ara is set aside. The petitioner is directed to be enlarged on bail in connection with Shahpur P.S. Case no. 197 of 2019 on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.I, Bhojpur at Ara.

This revision application stands allowed.

(Partha Sarthy, J)

sushma/-

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

