

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.29872 of 2020**

Arising Out of PS. Case No.-81 Year-2019 Thana- MOKAMAH District- Patna

Subodh Kumar, Son of Sri Mahendra Prasad, Resident of Village- Jangali Bigha, Police Station- Kasar in the district of Sheikhpura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate

For the Opposite Party/s : Mr. Md. Fahimmudin, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 02-12-2020 Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned A.P.P. for the State.

This is the second attempt of the petitioner to obtain bail in connection with Mokama P.S. Case No. 81 of 2019 registered for the offences under Section 392 of the Indian Penal Code.

Earlier the plea of the petitioner was rejected in Cr. Misc. No. 86368 of 2019 after noticing that both the T.I.P. witnesses have identified the petitioner in presence of the learned Judicial Magistrate 1st Class, Barh. Apart from that there are also criminal antecedents of the petitioner.

Mr. Sunil Kumar, learned counsel for the petitioner submits that Section 392 of the Indian Penal Code is a



Magistrate triable case and in this case the petitioner has already remained in custody for over one year three months, therefore, he may be released on bail. It is also submitted that co-accused Dharmraj has been granted bail by a learned co-ordinate Bench of this Court. Learned counsel, however, submits that so far as Dharmraj is concerned, he was not identified by the T.I.P. witnesses.

On the other hand, learned A.P.P. for the State submits that no doubt Section 392 of the Indian Penal Code is a Magistrate triable but in appropriate cases the punishment prescribed is rigorous imprisonment for 10 years and fine. It is further submitted that so far as this petitioner is concerned, he has got criminal antecedents and earlier also he was involved in the case under Sections 399 and 402 of the Indian Penal Code as also under the provisions of the Arms Act, he has been identified by the two witnesses and if released on bail at this stage there is every likelihood that he would threaten the witnesses and the trial cannot be concluded in near future.

Earlier this Court had called for a report from the learned trial court which has been received and kept at Flag 'A'. Learned trial court has informed that there is a possibility that the trial may be concluded within six months if the situation of



Pandemic COVID-19 gets normal and the court runs normally.

Having regard to the facts and circumstances of the case, considering the seriousness of the allegations and the materials in form of two witnesses identifying the petitioner in T.I.Parade and further that the petitioner has got criminal antecedents, this Court is not inclined to enlarge him on bail.

Since the learned trial court is looking for only six months time and now that the court is opening both physically as well as virtually, the learned trial court is directed to conclude the trial within a period of six months. Let no unnecessary adjournment be granted in this case and the prosecution must co-operate by producing witnesses on the date fixed in the matter. If for the reasons not attributable to the petitioner the trial is not concluded within the given period of six months, the petitioner may renew his prayer for regular bail.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

