

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75197 of 2019

Arising Out of PS. Case No.-541 Year-2014 Thana- GAYA MUFASIL District- Gaya

MITHILESH YADAV, Son of Dular Chand Yadav, Resident of Village-
Jhurang, P.S.-Fatehpur, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 08-06-2020 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

The FIR was registered against unknown on account of kidnapping of Kundan kumar in the year 2014. Accused were apprehended. Some of them were enlarged on bail. Charge has been framed on 19.09.2015 and since thereafter, the accused persons in order to give jolt to the trial, began to default. Up till now, three accused persons have already escaped. Consequent thereupon, the trial is pending for appearance of those accused persons.

Learned counsel for the petitioner submits that he is under custody since 31.12.2014 and so he be allowed to be enlarged on bail in the background of period of custody, irrespective of the nature of allegation attributed against him



during course of investigation.

At an earlier occasion by a detailed order dated 12.05.2015 prayer for bail of the petitioner was rejected after considering the materials available in the case diary, more particularly one Raushan Kumar Sinha @ Raushan Lala made inculpatory extra-judicial confessional statement and on the aforesaid statement the victim was recovered from the house of the petitioner who was apprehended at the spot along with Rajesh Kumar and Udesb Kumar Yadav.

The petitioner has made so many repeated attempts as is itself evident from para 2 of the petition. It is further evident that at the fault of themselves, the trial is lingering. Furthermore, there happens to be no proper methodology/provision prescribed under the Cr.P.C. to force the presence of the accused till the conclusion of the trial so the trial is found completely handicapped. At the mercy of the accused more particularly in the background of the fact that in accordance with Section 273 of the Cr.P.C. the trial is to be conducted in presence of the accused save and except where personal presence is exempted either under section 205 or under section 317 of the Cr.P.C.

It is true that accused should not be allowed to remain



behind bar for indefinite period but, when the accused are themselves responsible for causing delay by their disappearance, who would be responsible. Every effort of accused happens to be to linger the trial in order to have absence of the witnesses in the background of delay. Then, in that circumstance, who would be responsible for the same, certainly the accused.

Consequent thereupon, the prayer for bail of the petitioner is rejected.

(Aditya Kumar Trivedi, J)

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