

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79277 of 2019

Arising Out of PS. Case No.-137 Year-2012 Thana- KHAJEKALA District- Patna

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BABLU GOPE @ BABLU YADAV Son of Late Kheladi Rai @ Kheladi
Yadav @ Shiv Basant Yadav Resident of Village-Mitan Ghat, P.S.-
Khajekalan, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sandeep Shahi, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 26-06-2020 Heard Mr. Sandeep Shahi, learned counsel appearing
on behalf of the petitioner, Mr. Jitendra Kumar Singh, learned
A.P.P. for the State and Mr. Makardhwaj Upadhyay, learned
counsel for the informant through Video Conferencing.

The petitioner seeks bail in Khajekalan P.S. Case
No.137 of 2012, corresponding to Sessions Trial No.700A of
2013 registered under Section 341, 323, 302 and 34 of the
Indian Penal Code and Section 27 of the Arms Act.

Mr. Sandeep Shahi, learned counsel for the petitioner
submits that prayer for bail of the petitioner was earlier thrice
rejected by this Court. On the last occasion, the prayer for bail
of the petitioner was rejected on 31.01.2019 passed in Cr. Misc.
No.70411 of 2018 with a direction to the trial court to expedite
the trial and conclude the same. The S.S.P., Patna was also



directed to ensure the presence of the witnesses but the trial has not yet been concluded. Since 20.02.2020, not even a single prosecution witness has been examined. Petitioner is in jail since last four years. It is submitted that only omnibus allegation of firing is made.

Learned A.P.P. as well as learned counsel for the informant vehemently opposed the prayer for bail and submitted that three persons of the family of the informant were killed. Prior to this occurrence, other members of the family were also killed by the petitioner and others. The petitioner was absconding. Other accused persons have already been convicted. Ten prosecution witnesses have also been examined but on account of lockdown due to covid-19 pandemic, the remaining witnesses could not have been examined. The petitioner has also got criminal antecedent and, therefore, the petitioner does not deserve bail.

Perused the record and the report of the learned Addl. Sessions Judge as well as the S.S.P., Patna. It appears that out of 17 witnesses, 8 witnesses have already been examined. According to the report of the S.P. also, most of the independent witnesses have already been examined. Out of 12 witnesses, 10 witnesses including the Medical Officer and I.O. of the case



have been examined. Only one independent witness is yet to be examined. One independent witness namely Soni Lal Yadav has died.

Taking into consideration the facts that trial is at the fag end and only one witness is to be examined but same could not be examined on account of lockdown and covid-19 pandemic, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

The trial court is directed to hold the trial on day to day basis and conclude the same within four months from the date of receipt of this order.

The S.S.P., Patna and S.P., Patna City are directed to ensure the presence of the remaining witnesses so that the prosecution witnesses must be examined within four months and thereafter, the learned trial court shall dispose of the trial preferably within three months after hearing both sides and providing sufficient opportunity to the defence for adducing evidence.

Let a copy of this order be sent to S.S.P., Patna, S.P., Patna City and the trial court for information and needful.

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(Prabhat Kumar Jha, J)

