

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.14462 of 2021**

Arising Out of PS. Case No.-65 Year-2012 Thana- BARIYARPUR District- Munger

1. Vikash Yadav Son of Late Nago Yadav Resident of Village- Jhausa Bahiyar, P.S.- Bariyarpur, District- Munger.
2. Rajeshwar Yadav Son of Late Nago Yadav Resident of Village- Jhausa Bahiyar, P.S.- Bariyarpur, District- Munger.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Dhirendra Singh,Advocate
For the Opposite Party/s : Mr.Akhileshwar Dayal,APP

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

2 28-07-2021 Heard learned counsel for the petitioners and Mr. Akhileshwar Dayal, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Sessions Case No. 12 of 2017 arising out of Bariyarpur P.S. Case No. 65 of 2012 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that in the First Information Report there are general and omnibus allegations against all the accused including these petitioners. Informant is the father of the deceased who alleged that due to a land dispute the occurrence took place. There is no eye witness to the alleged occurrence and the co-accused namely Tapes

Yadav, Sattan Yadav @ Satya Narayan Yadav and Arun Yadav have already been acquitted in ST No. 436 of 2013 and ST No. 26 of 2013 respectively. Prayer for bail of these petitioners were rejected vide order dated 23.02.2020 after finding that they were absconding for several years and had been in custody only since 03.06.2019.

Learned counsel submits that now the petitioners have completed more than two years of custody but during this period no progress has been made in trial. He has placed on record Annexure '3' which is the order of the learned trial court passed on 04.12.2020 and made statement that no witness has turned up on the date fixed in the matter.

Learned counsel submits that till date no witness has turned up and for last seven months there is no progress in the trial and the position remains the same.

On the other hand, learned APP for the State has opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case and finding that the petitioners are in custody for more than two years, this court is of the considered opinion that in absence of any progress in the trial, the petitioners cannot be kept in incarceration for an indefinite period. If the witnesses are not

turning up in course of trial and as per the submission of learned counsel for the petitioners no prosecution witness has turned up till now, the learned trial court shall release the petitioners above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge, Munger in connection with Sessions Case No. 12 of 2017 arising out of Bariyarpur P.S. Case No. 65 of 2012, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at

any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application is allowed.

(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'.