

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16231 of 2021**

Arising Out of PS. Case No.-37 Year-1993 Thana- NAWANAGAR District- Buxar

RAMAKANT TIWARY Son of Late Rambyash Tiwary Resident of Village -
Itaunha, P.S.- Nawangar, Sonbarsa O.P., Distt.- Buxar.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ramakant Sharma,Sr. Advocate

Mr.Vagisha Pragya Vacaknavi

For the Opposite Party/s : Mr.Akhileshwar Dayal,APP

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

3 29-06-2021 Learned counsel for the petitioner undertakes to

remove all the defects pointed out by the Stamp Reporter within

four weeks after start of normal functioning of the Court.

Heard learned Senior Counsel for the petitioner and

Mr. Akhileshwar Dayal, learned APP for the State.

The petitioner in the present case is seeking regular

bail in connection with Nawangar P.S. (Sonbarsa O.P.) Case

No. 37 of 1993 registered for the offences punishable under

Sections 302/147/148/149/448 of the Indian Penal Code and

Section 27 of the Arms Act.

Learned Senior Counsel for the petitioner submits that

the present FIR is of the year 1993. In the FIR there are general

and omnibus kind of allegations against all the accused

including this petitioner. Altogether six persons were named and



the petitioner is at serial number 3 in the column of the accused.

Learned Senior Counsel further submits that except the petitioner all other co-accused have faced trial and they have been acquitted by a judgment dated 12.01.2018 rendered by learned F.T.C. I, Buxar in Sessions Trial No. 46 of 2017. So far as this petitioner is concerned, it is submitted that he is a retired army personnel who has served the nation continuously for 27 years. He surrendered before the learned court below on 10.12.2020 and is in custody since then. Submission is also that the petitioner has falsely been implicated in this case.

Learned Senior Counsel has then taken this Court though the depositions of the six prosecution witnesses including the informant and submits that the informant has made material contradictory statement regarding the presence of the petitioner.

It is further submitted that according to the informant the deceased had told the informant that the co-accused Rampujan Tiwary had fired upon him. It is further submitted that considering the facts and circumstances of the case wherein the petitioner has remained in jail in connection with this case for about 8 months but the trial is not likely to be



concluded in near future, this Court may upon considering the entirety of the circumstances direct release of the petitioner on bail during the pendency of the trial.

Learned Senior Counsel has also tried to impress upon this Court with the judgment of the Hon'ble Apex Court in the case of **Central Bureau of Investigation Vs. Akhilesh Singh reported in AIR 2005 SC 268** and in the case of **Muneer Ahmed Qureshi, Muneer @ Gaun Muneer V. State of Karnataka reported in 2002 (1) KCCR** to say that the acquittal of the co-accused may be a relevant factor for consideration by this Court while considering the prayer for bail.

Learned APP for the State has opposed the prayer for regular bail of the petitioner.

This Court has perused the report received from the learned trial court which says that the trial is likely to take at least one year.

Considering the facts and circumstances of the case and submission of learned Senior Counsel for the petitioner and also the report of the learned trial court, since this Court finds that the trial of the present case is fixed for hearing on the discharge petition of the present petitioner and the trial is likely



to take another one year, also considering that this petitioner is a retired army personnel and there is no chance of absconding from trial, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-VII, Buxar in connection with Nawanagar P.S. (Sonbarsa O.P.) Case No. 37 of 1993, 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 in course of trial the petitioner shall appear on each and every date fixed in the trial and two consecutive failure in putting appearance without there



being any cogent reason may invite action towards cancellation of bail of the petitioner by the court below.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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 stands 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'.

