

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16416 of 2021**

Arising Out of PS. Case No.-888 Year-2017 Thana- KHAGARIA District- Khagaria

KARE LAL SINGH Son of Late Lakhan Singh Resident of Village - Ekania,
P.S.- Mansi, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shekhar Kumar Singh, Advocate

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

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

2 07-07-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

This is the third attempt of the petitioner to obtain bail in connection with Khagaria P.S. Case No. 888 of 2017 registered under Section 364 of the Indian Penal Code, pending in the court of learned Additional District & Sessions Judge – 5th, Khagaria, Vide Sessions Trial No. 97/2019.

Learned counsel for the petitioner submits that earlier the prayer of bail of the petitioner was rejected on 23.01.2019 in Cr. Misc. No. 71009/2018, thereafter the petitioner moved in Cr. Misc. No. 85581/2019 which was heard by this Court on 01.06.2020. The application was permitted to be withdrawn with a direction to the learned court below to proceed with the trial and conclude the same as early as possible preferably within a period of six months from the date of receipt/production of a copy of the



order.

Learned counsel submits that the petitioner is in custody in connection with this case since 17.07.2018 as he voluntarily surrendered in this case after the observation of this court while rejecting his prayer for anticipatory bail. Since then he is in custody but till date the charge has not been filed. The petitioner has otherwise no criminal antecedent.

On the other hand, learned counsel for the State has opposed the prayer for bail of the petitioner. It is submitted that since the last observation of this Court, due to present pandemic Covid-19 situation the trial courts are not functioning in physical mode and the cases are not proceeding in usual course. It is submitted that the charge has not been framed because the co-accused namely, Sikandar Singh and Lodhi Yadav are not appearing.

After hearing learned counsel for the petitioner and learned A.P.P. for the State, this court is of the opinion that because of the present pandemic Covid-19 situation the trial courts are not functioning normally, hence the delay caused in framing of charge and conclusion of trial cannot confer any benefit to the petitioner. The victim is still traceless and this petitioner is named in the F.I.R. as the person to whom the victim had gone.

This court is, thus, not inclined to enlarge the petitioner



on bail on the ground of delay in conclusion of trial at this stage.

This Court, however, directs the learned trial court to take a view of separating the trial of the petitioner. If the co-accused are not appearing and while taking coercive steps to procure the attendance of non-appearing accused, if the court finds that delay is being caused because of their non-appearance, the records of this petitioner be separated and the petitioner be tried separately.

The Public Prosecutor is expected to cooperate with the trial in the learned trial court in early conclusion of the trial preferably within a period of six months from the date of start of normal functioning of the court. If the trial remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

