

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.20778 of 2021**

Arising Out of PS. Case No.-218 Year-2019 Thana- DURGAWATI District- Kaimur (Bhabua)

MITESH KUMAR @ NITESH KUMAR S/O MUKHTAR SINGH YADAV
@ MUKHATAR SINGH R/O VILLAGE KARAMNASHA, P.S
DURGAWATI, DISTRICT KAIMUR

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar,Advocate

For the Opposite Party/s : Mr.Md.Fahimuddin,APP

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

3 18-08-2021 Heard learned counsel for the petitioner and Mr. Md.
Fahimuddin, learned APP for the State.

This is the second attempt of the petitioner to obtain regular bail in connection with S.Tr. No. 303 of 2019 arising out of Durgawati P.S. Case No. 218 of 2019 registered for the offences punishable under Sections 302, 201, 396, 412, 120(B)/34 of the Indian Penal Code.

Earlier his prayer for bail was rejected vide order dated 12.12.2019 passed in Cri. Misc. No. 76087 of 2019. Learned counsel for the petitioner submits that the petitioner has remained in custody in connection with this case for about two years but the trial is not likely to be concluded in near future.

Learned APP for the State submits that a perusal of the order dated 12.12.2019 would show that this Court has

considered the materials available on the record which includes the statement of the petitioner recorded under Section 164 Cr.P.C. in which he has stated to have actively participated in the commission of crime with the co-accused. The scientific investigation has revealed that the petitioner was in touch with the co-accused who have been identified by the deceased Khalasi and at their instance recovery of vehicle and other materials has also been made.

Learned APP, therefore, submits that considering the gravity of the offence in this case the period of custody alone be not considered for release of the petitioner.

Considering the facts and circumstances of the case, earlier order of this Court in which the detail materials have been discussed, this Court is not inclined to release the petitioner on bail on the ground of period of custody. The offence alleged is in the nature of heinous offence.

The trial court's report shows that in this case the record is running at the stage of evidence of prosecution but the witnesses are not turning up because most of them are from the State of U.P. and Punjab, summon and bailable warrant have been issued to the witnesses.

In the aforesaid circumstances, this Court directs the

Superintendent of Police, Bhabhua at Kaimur to ensure the presence of all official and non-official witnesses in this case immediately on the date fixed in the mater and cooperate with the prosecution. The learned trial court is expected to conclude the trial as early as possible preferably within a period of six months which has been stated by the learned trial court in its report, however, the said period shall be counted from the date of start of physical functioning of the court. If the trial remains unconcluded during this period for no reason attributable to the petitioner, he may renew his prayer for bail.

The application stands disposed of accordingly.

(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'.