

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.21096 of 2021**

Arising Out of PS. Case No.-164 Year-2015 Thana- ALAMGANJ District- Patna

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SUMAN KANT SINHA, Son of Late Rameshwar Prasad Sinha, Resident of
Village - Saguna Gas Godam Road, P.S.- Danapur, Dist.- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Sharma, Advocate

For the Opposite Party/s : Mr.Anant Kumar 1, A.P.P.

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

2 12-08-2021 Learned counsel submits that the petitioner is in custody since 18.09.2016 and in this regard there is a typographical error in the petition as in paragraph '14' it has been typed as '05.09.2016'.

Learned counsel further craves leave to make correction with regard to the date of the impugned order.

Permission is granted.

Let the correction be carried out.

Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Anant Kumar 1, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Special Case No. 24 of 2019 arising out of Alamganj P.S. Case No. 164 of 2015 (G.R. No. 206/15) registered for the offence punishable under Section 406, 409 of the Indian Penal Code. He is in custody for almost five years and till date the trial has not begun.

Learned counsel for the petitioner submits that earlier the prayer for bail of the petitioner was rejected after considering that there are allegations against the petitioner of defalcation of huge amount from G.P.F. account of several persons from the government treasury. At that time the learned predecessor Bench of this Court passed an order on 23.01.2019 in Cr. Misc. No. 73878 of 2018 in which considering the period of custody of two and half years of this petitioner, the Senior Superintendent of Police, Patna was directed to produce the witnesses in the Court on the date fixed so that the trial may be concluded at the earliest.

It is further submitted that when the petitioner moved before the Hon'ble Supreme Court, vide order dated 01.07.2019 though the Hon'ble Supreme Court dismissed the Special Leave Petition but at the same time granted liberty to the petitioner to file another application for bail after one year if the trial is not

commenced.

Learned counsel submits that more than two years have gone thereafter and till date the trial has not commenced.

It is further pointed out that prior to the aforesaid developments in the present case, in similar allegations against the petitioner in Daniyawar P.S. Case No. 67 of 2015, a learned coordinate Bench of this Court had vide its order dated 02.01.2018 passed in Cr. Misc. No. 53406 of 2017 granted bail to the petitioner. Learned counsel, therefore, submits that it is well settled that an under trial prisoner cannot be kept in custody by way of punishment and incarceration of the petitioner at this stage is not likely to serve the purpose of the prosecution.

On the other hand, Mr. Anant Kumar 1, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. It is pointed out that learned court below has refused to grant bail to the petitioner after noticing the allegation of misappropriation of huge amount of G.P.F. amount.

Considering the facts and circumstances of the case, this Court is of the opinion, at this stage, that almost five years of custody of the petitioner is a good ground for release of the petitioner on bail. This Court has noticed that despite the

direction of a learned predecessor Bench of this Court to the Senior Superintendent of Police, Patna the witnesses have not turned up and more than two years have gone after the order of the Hon'ble Supreme Court but the trial has not commenced. This was submitted before the learned Special Judge, Vigilance Court, Patna but the same has not at all been considered. The petitioner has got only one case of similar nature and it is the contention of the learned counsel for the petitioner that in fact in the same allegations two cases have been lodged against him, in the totality of the circumstances, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, Patna in connection with Special Case No. 24 of 2019 arising out of Alamganj P.S. Case No. 164 of 2015 (G.R. No. 206/2015), subject to the condition 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 he is suspected, and

(c) that such person shall not directly or indirectly make any 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 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.

(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'.