

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26283 of 2020

Arising Out of PS. Case No.-105 Year-2019 Thana- GANDHIMAIDAN District- Patna

Monu Patel, Son of Kalyan Singh, Resident of Mohalla- Begampur, Police
Station- Chowk, District- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Mouar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 24-02-2021 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned A.P.P. for the State.

This is the second attempt of the petitioner to obtain regular bail in connection with Sessions Trial No. 868 of 2019 arising out of Gandhi Maidan P.S. Case No. 105 of 2019 registered for the offences under Sections 302, 120(B) of the Indian Penal Code and 27 of the Arms Act.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR, his name has transpired in the confessional statement of co-accused Vishal Kumar.

Earlier prayer for regular bail of the petitioner was rejected by this Court considering that he has got some criminal antecedents and his release may result in threatening of the witnesses.

At this stage, learned counsel for the petitioner submits



that the petitioner is in custody in connection with this case since 11.03.2019. In the meantime, the co-accused Vishal Kumar has been granted privilege of bail though he has also got criminal antecedent in Cr. Misc. No. 61023 of 2019.

Learned counsel submits that till date charge has not been framed in this case and there is no chance of conclusion of trial in near future. The earlier rejection of the prayer was under an impression that the trial is likely to be concluded in near future.

Learned counsel has submitted that this Court has called for a report from the learned trial court and as per latest report contained in letter no. 12 of 2021 the petitioner has not been produced before the competent court on several dates either physically or through virtual mode, therefore, in terms of proviso to sub-Section (2) of Section 309 of the Criminal Procedure Code, he has not been remanded legally and his continued incarceration is without following the established procedure of law. He has pointed out that even as per the report of the learned court below the charge is yet to be framed. It is then contended that the petitioner has five cases on his head and in all those cases he has been ordered to be released on bail.

Learned APP for the State has gone through the case diary and submits that earlier the prayer for bail of the petitioner was though rejected, it is an admitted position that the co-accused



on whose confessional statement the petitioner has been brought in the purview of this case has been granted privilege of bail in Cr. Misc. No. 61023 of 2019.

Having regard to the facts and circumstances of the case, noticing that the co-accused Vishal Kumar on whose confessional statement the name of this petitioner had transpired has been granted bail and now the cases in which the petitioner has been made accused he is said to be on bail, the trial of the case has not yet begun and it is evident from the report of the learned trial court that neither physically nor through virtual mode the petitioner is being produced, this Court directs the petitioner above named be released 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 Additional District and Sessions Judge-XX, Patna in connection with Sessions Trial No. 868 of 2019 arising out of Gandhi Maidan P.S. Case No. 105 of 2019, 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 till conclusion of the trial in the present case the petitioner shall put his attendance before the S.H.O. of Chowk Police Station, Patna within whose jurisdiction the petitioner resides, every month on a date fixed by the Station House Officer and his attendance shall be recorded.

In case the petitioner is found getting involved in any further act of crime, the Station House Officer Chowk Police Station shall either himself or through the S.H.O., Gandhi Maidan Police Station take appropriate steps for filing an application for cancellation of bail of the petitioner.

The petitioner shall co-operate in course of trial by putting his appearance on each and every date fixed in the trial and two consecutive failures in putting attendance shall invite cancellation of bail by the learned court below itself in accordance with law.

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 disposed of accordingly.

Let a copy of the order be communicated to the S.H.O., Chowk Police Station, Patna and Gandhi Maidan Police Station, Patna for their record and needful.

(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'.

