

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.27228 of 2020**

Arising Out of PS. Case No.-80 Year-2016 Thana- GHOGHARDIHA District- Madhubani

MD. ISMAIL, Son of Late Suleman, Resident of Village - Belas Nagar, P.S.-
Nirmali, District - Supaul.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha, Advocate

For the Opposite Party/s : Mr.Ram Chandra Sahni, APP

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

10 31-08-2021 Heard learned counsel for the petitioner and Mr. Ram
Chandra Sahni, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Ghoghardiha P.S. Case No. 80 of 2016
corresponding to G.R. No. 1106/16 registered for the offence
under Sections 395 of the Indian Penal Code. He is in custody
since 30.10.2017.

Learned counsel for the petitioner submits that the
petitioner has been falsely implicated in this case on the basis of
confessional statement of co-accused one Raju Mukhiya and
Bhuban Mukhiya. It is his further submission that co-accused
named in paragraph '11' of this petition has been granted bail by
learned coordinate Benches of this Court.

Earlier when this Court noticed that the petitioner has

got 22 criminal antecedents, as stated in paragraph '3', a report was called for from the learned court below as to the present stage of trial. This Court has been informed that in this case cognizance has been taken on 19.02.2019, but thereafter the record has not proceeded further due to non-appearance of the co-accused who are on bail.

This Court also called for a report from the learned court below as to what steps have been taken to procure the appearance of the co-accused who are not putting appearance and status of all the cases against the petitioner was called for from the Superintendent of Police, Madhubani.

The Superintendent of Police, Madhubani has informed that Investigating Officer of the concerned cases have already filed charge-sheet. In Nirmali P.S. Case No. 42/2005 under Section 25(1-B)A/26 of Arms Act, the petitioner was convicted for two years and two months after trial.

After noticing that the petitioner is a convict in one of the cases but this fact was not recorded in the supplementary affidavit filed on behalf of the petitioner, this Court called for an affidavit from the deponent but no affidavit has been filed and Mr. Ratnakar Jha, learned counsel representing the petitioner submits that despite his all efforts the deponent has not

furnished him the information required in this regard, as a result whereof the affidavit has not been filed.

Learned counsel for the State submits that this petitioner is a convict and it seems that he is involved in serious and heinous kind of offences for which the cases are pending against him. It is his submission that considering his criminal antecedents and the fact that the co-accused of this case, who are on bail, are evading their appearance, if the petitioner is released on bail there would be no chance of conclusion of trial in near future and it would be badly effected.

Considering the facts and circumstances of the case, seriousness of the offence alleged and the fact that the petitioner has got 23 cases against him, he is a convict in one of the cases and this fact was not clearly informed to this Court on behalf of the petitioner, this Court is not inclined to release the petitioner on bail at this stage.

The learned court below has informed that cognizance was taken in this case long back, therefore it is expected that the court below shall proceed with the matter as early as possible and if the records are pending for appearance of the above co-accused who are evading appearance, while proceeding against them in accordance with law the records of this petitioner shall

be separated and steps will be taken within a month towards framing of charge and all endeavours be made to conclude the trial within a period of nine months from the date of communication of this order.

If the trial remains unconcluded during this period for no reason attributable to the petitioner, he may renew his prayer for bail.

Let a copy of this order be sent to the Superintendent of Police, Madhubani for keeping track of this case and ensure attendance of all the prosecution witnesses on the date fixed in the matter.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

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'.