

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.36819 of 2020**

Arising Out of PS. Case No.-157 Year-2006 Thana- RAXAUL District- East Champaran

PAPPU KUMAR @ PAPPU SINGH @ PAPPU KUMAR SINGH Son of
Shyambabu Singh Resident of Mohalla- Railway Quarter No.3, Station Road
Harinagar, P.S.- Ramnagar, Distt- East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 6115 of 2021

Arising Out of PS. Case No.-157 Year-2006 Thana- RAXAUL District- East Champaran

SATYA PRAKASH @ RAKESH @ SATYA PRAKASH PANDAY Son of
Vairishtar Pandey Resident of Village - Sugauli, P.S.- Shikarpur, Dist.- East
Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 36819 of 2020)

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mrs. Dr. Indivar Kumari, APP

(In CRIMINAL MISCELLANEOUS No. 6115 of 2021)

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

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

9 06-07-2021 At the outset, learned counsel for the petitioner seeks

permission to make a correction in Cri. Misc. No. 36819 of

2020 with regard to the name of the district in petitioner's

address as according to him the name of the district would be

East Champaran instead of West Champaran.

Let the correction be carried out accordingly.



Heard learned counsel for the petitioners and Mrs. Dr. Indihar Kumari, learned APP for the State in Cri. Misc. No. 36819 of 2020 and Mr. Anil Kumar Singh No. 1, learned APP for the State in Cri. Misc. No. 6115 of 2021.

In both the applications the petitioners are seeking regular bail in connection with Raxaul P.S. Case No. 157 of 2006 registered for the offences punishable under Sections 341, 323, 452, 307, 120B, 326 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioners submits that the petitioners were not named in the First Information Report. Their names have transpired in course of investigation. They were identified by two witnesses in course of test identification parade.

Learned counsel further submits that the petitioners are in custody in connection with this case since 02.12.2006 when they were produced from Haridwar where they were facing three cases. After few months of their production in the present case, they were required to be produced at Haridwar, therefore, they were again sent to Haridwar. In the three cases which were lodged at Haridwar, they have been granted bail as stated in paragraph '3' of the application. In one case which was



lodged at Motihari, they have got bail but they have not been released so far because in the present case their prayer for bail was rejected by a learned Co-ordinate Bench of this Court vide order dated 11.01.2011 in Cri. Misc. No. 30702 of 2010. A copy of the order passed by a learned Co-ordinate Bench of this Court has been brought on record. Persual thereof would show that while directing the learned trial court to conclude the trial within six months from the date of receipt or production of the copy of the order the learned Bench observed that if the trial of the petitioner is not concluded within the said period the petitioner may renew his prayer for bail.

Learned counsel for the petitioners submits that since then 10 years have gone but the trial has not been concluded. Till date only one prosecution witness has been examined who is the informant of the case and he has turned hostile.

Learned counsel submits that from the date of first production in this case the petitioners have remained in custody for more than 14 years. The petitioners were produced from Haridwar after a long time in this case on 05.10.2015 and since then they are very much available to face trial in this case. The records were committed to the court of Session on 17.12.2014, charges were framed on 12.05.2016 but despite the issuance of



bailable and non-bailable warrant of arrest against the witnesses, and show cause notice issued to the SHO the only witness who appeared for evidence is the informant on 17.05.2019.

Earlier this Court had called for a report from the Superintendent of Police as well as learned District and Sessions Judge, East Champaran, Motihari. The report has been received which has been read over to this Court. It shows that the concept of speedy justice to the under trial prisoner has remained a hollow and shallow concept in the context of the present case. After this Court called for a report it seems that the police, in order to explain its conduct moved further. Learned Sessions Judge has recorded that because of the present pandemic situation the two witnesses who had turned up on the last date were not examined.

Learned counsel for the State submits that in the present case the petitioners were identified by the witnesses and, therefore, their prayer for bail was rejected by a learned Co-ordinate Bench of this Court. Learned APP, however, is unable to show any reason as to why the trial could not be concluded for about 10 years from the date of last rejection of the prayer for bail of the petitioners. It is not in doubt that the petitioners have remained in custody in connection with this case after their



production since 2006. Learned Sessions Judge while rejecting the prayer for bail of the petitioners has also recorded in the impugned order that they are in custody since 02.12.2006.

While considering the prayer for bail of the petitioners, this Court has weighed the seriousness of the offences alleged, the materials placed before this Court as well as the fundamental rights of the petitioners to get speedy trial and justice and the period spent by the petitioners behind the bars.

The allegations are of serious nature and there is a case of identification by two witnesses but what is prevailing upon the mind of the Court is that the petitioners have remained in jail as under trial prisoner for over 14 years in connection with this case and despite the observation of this Court directing the trial court to conclude the trial within six months, for 10 years the trial has not concluded. This is a case of huge delay in conclusion of trial.

The report of the learned Sessions Judge shows that the informant has gone hostile and the prosecution witness were not willing to participate in the prosecution and even the non-bailable warrant of arrest issued against the witnesses on 17.05.2019 did not yield any significant result, the police did



not execute the warrants, S.H.O. was called upon to show-cause but he remained passive and the witnesses did not turn up for a long time.

Under these circumstances, this Court is of the considered opinion that these petitioners cannot be kept confined as a major of punishment after all these years. This Court, therefore, directs release of the petitioners above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two sureties of the like amount each to the satisfaction of learned 24th Additional Sessions Judge, Motihari, East Champaran in connection with Raxaul P.S. Case No. 157 of 2006, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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 petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioners. 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.

And further condition that in course of trial the petitioners shall appear in the trial court on each and every date fixed in the matter and two consecutive defaults in putting appearance in the trial court shall lead to cancellation of bail bond of the petitioners by the court below.

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'.

