

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6773 of 2021

Arising Out of PS. Case No.-170 Year-2017 Thana- THAKRAHA District- West Champaran

C.J. Kharwar @ Seeje Kharwar Son of Vinayak Kharwar Resident of Village-
Thakraha, Tola Nautan, P.S.- Thakraha, District- West Champaran (Bihar).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-02-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is the husband of the deceased and is seeking regular bail in connection with Sessions Trial No. 425 of 2018 arising out of Thakraha P.S. Case No. 170 of 2017 registered for the offences punishable under Sections 304(B) and 34 of the Indian Penal Code.

Earlier the prayer for regular bail of the petitioner was rejected vide order dated 27.11.2019 passed in Cr. Misc. No. 65098 of 2019 with an observation as under:

“However, considering the fact that
the petitioner is in custody since 10.11.2017
and it seems that the trial has not progressed so
far, the trial court is directed to expedite the



trial without granting any adjournment to the
either side and conclude the trial within a
period of six months from today.”

Learned counsel for the petitioner submits that after passing of the said order by this Court not a single witness has been examined and in fact the court is lying vacant, there is no chance of conclusion of trial in near future.

This Court had called for a report from the learned trial court which has been received and is kept at Flag ‘B’. On perusal of the report it appears that since 03.11.2020 the Presiding Officer of the Court is not present and the court is lying vacant. Not a single witness has been examined in this case. The petitioner has remained in jail since 10.11.2017 and it is the submission of the learned counsel for the petitioner that his appearance would be secured by putting such conditions as may be thought just and proper by this Court.

Learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner, in the given facts and circumstances of the case, where the petitioner has remained in jail for almost three years and six months and till date the trial has not begun and not a single witness has been examined after the earlier rejection of prayer for bail since 27.11.2019, in fact the court is itself lying vacant and there is no chance of early conclusion of



trial, in the opinion of this Court further incarceration of the petitioner in jail is not likely to come in aid of prosecution, let the petitioner be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Bagaha, West Champaran in connection with Sessions Trial No. 425 of 2018 arising out of Thakraha P.S. Case No. 170 of 2017 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 in course of trial the petitioner shall appear in the learned court below on each and every date fixed in the matter, two consecutive defaults in putting appearance in the trial court shall led to an action towards



cancellation of bail by the learned court below.

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.

This 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'.

