

IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.7185 of 2021

Arising Out of PS. Case No.-2 Year-2019 Thana- MALI District- Aurangabad

RAKESH GIRI S/o Janardan Giri R/o village- Ankorha, P.S.- N.T.P.C.
Khaira, District- Aurangabad

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Paras Nath, Advocate
For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 04-08-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with S. Trial No. 445 of 2019/204 of 2019 arising out of Mali P.S. Case No. 2 of 2019 for the offences registered under Section 399, 402, 414 of the Indian Penal Code and 25(1-B)a, 26 and 35 of the Arms Act.

Learned counsel for the petitioner submits that as per the prosecution story, one country-made loaded pistol and two live cartridges have been recovered from the possession of the petitioner.

Learned counsel for the petitioner submits that one

country-made pistol along with two live cartridges were allegedly recovered from the possession of the petitioner. It is further submitted that as per the impugned order one golden ring which was allegedly one of the looted articles were recovered from the possession of the petitioner but nothing had been brought in course of investigation to connect the said golden ring with any occurrence of loot, this petitioner is said to have four criminal antecedent however out of four cases in two cases he is already been acquitted from the charges and in two other cases he is on bail.

Learned counsel submits that the petitioner is languishing in jail in connection with this case since 25.1.2019. In course of trial only one witness who was a member of the raiding party has been examined but the said examination of witness had taken place in January, 2020 and thereafter no witness has been examined in this case.

On the other hand learned APP for the State has opposed the prayer for bail of the petitioner.

This Court had called for a report from learned trial court as to the present stage of trial and the time likely to be taken in conclusion thereof. This Court has been reported that the case is fixed for prosecution evidence and till date only one witness has been examined. The trial court expects that the trial will be concluded within six months if both the parties of the case cooperate the court in the virtual mode/physical mode.

Considering the facts and circumstances of the case wherein the petitioner has remained in custody in connection with this case for more than two and half years, the last witness on behalf of the prosecution was examined in January, 2020 only and since then no further witness has turned up, the court is presently running in virtual mode only and trial is not likely to be concluded in near future, and further considering that the co-accused of this case have been granted bail in Cr. Misc No. 60262 of 2019 by learned coordinate Bench of this Court, this Court directs release of the petitioner on bail on furnishing of bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Addl. District & Sessions-IX, Aurangabad in connection with S.Tr No. 445/19/204/19 arising out of Mali P.S. Case No. 2 of 2019, 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 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.

And further condition that in course of trial the petitioner shall appear on each and every date fixed in the matter. Two consecutive defaults in putting appearance shall lead to action towards cancellation of bail by the learned court below without seeking any formal application for this purpose.

The application stands allowed.

(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'.