

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8713 of 2021**

Arising Out of PS. Case No.-173 Year-2016 Thana- JHANJHARPUR District- Madhubani

PAWAN RAUT @ PAWAN KUMAR RAUT SON OF LATE VISHWA
NATH RAUT R/O VILLAGE- PURANI BAZAR MACHHAHATTA
CHOUK, P.S.- JHANJHARPUR, DIST.- MADHUBANI

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baleshwar Kamar, Advocate.

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP.

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

2 30-04-2021 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. Sanjay Kumar Sharma, learned APP for the State.

This is the third attempt of the petitioner to obtain regular bail in connection with Jhanjhanpur P.S. Case No. 173 of 2016 registered for the offences punishable under Sections 304B/315/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is the husband of the deceased. Earlier his prayer for bail was rejected vide order dated 16.3.2018 passed in Cr. Misc. No. 8942 of 2018. Thereafter, in the second attempt the prayer for bail was rejected vide order dated 4.9.2019 passed in Cr. Misc. No. 54329 of



2019. The copy of the orders have been placed on record.

Learned counsel for the petitioner has drawn the attention of this Court towards the concluding part of the order dated 4.9.2019 whereby this Court had directed the learned trial court to conclude the trial as expeditiously as possible preferably within five months from the date of receipt of the production of the copy of the order. The Superintendent of Police, Madhubani was directed to ensure production of the witnesses on each and every date without fail.

Learned counsel for the petitioner submits that he has made specific statement in paragraph '26' of the present application which this Court would extract as under:-

“ That as per direction of this Hon'ble Court the Learned Trial Court ought to have been concluded the trial much earlier but it is categorically submitted and stated before this Hon'ble Court that till date no any witness has been examined as per the direction of this Hon'ble Court.”

It is submitted that petitioner is languishing in judicial custody since 5.1.2017 i.e. for four years four months approximately and till date no witness has been examined after the directions of this Court. It is submitted that in the present day's pandemic condition there is no hope of conclusion of trial in near future. It is, thus, submitted that for no fault of the petitioner if the trial is not concluded for over four years, the petitioner deserves privilege of bail.

Learned APP for the State has though opposed the prayer



for bail of the petitioner, however, considering that despite the earlier direction of this Court, the trial has not progressed and the petitioner had remained in jail for almost four years four months approximately by now, there is specific statement in paragraph 26 of the present application that no witness has been examined till date, this Court having noticed that the trial is not likely to be concluded in near future and the petitioner has spent substantial period in custody, this Court directs release of the petitioner above named 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 Additional District Judge, Jhanjharpur, Madhubani in S.T.No. 134 of 2017 arising out of Jhanjharpur P.S. Case No. 173 of 2016, 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 on the date fixed in the matter shall invite cancellation of the bail of the petitioner by the learned court below.

The application stands disposed of accordingly.

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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'

