

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5571 of 2022

Arising Out of PS. Case No.-106 Year-2000 Thana- CHOUTARWA District- West
Champaran

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Chuman Yadav Son Of Late Indradeo Yadav Resident Of Village- Bagahwa
Tar, Police Station- Dhanaha, District- West Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.Vijay Kr Singh No. 1, Advocate
For the Opposite Party	:	Mr. Lalit Kishore, A.G.
		Mr.Nand Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 31-08-2022 Heard learned counsel for the petitioner and learned
Advocate General for the State.

Petitioner, in the present case, is seeking regular bail in connection with Sessions Trial No. 94 of 2014 arising out of Chautarwa P.S. Case No. 106 of 2000 registered for the offence under Sections 302/34 of the Indian Penal Code and Section 27(1) of the Arms Act. He is in custody since 06.11.2013. In paragraph '3' of the petition it is stated that petitioner had been made accused in 58 cases but out of them now only four cases are pending and in all other cases he has been acquitted.

As per the prosecution story, the informant has alleged that on 21.09.2000 at about 9:00 A.M. one Bedi Paswan came to his house and informed him that his son has been caught hold by the miscreants, thereafter he along with other



villagers proceeded towards the said garden and saw Awadhesh Paswan and Chuman Yadav had tied his son by Gamchha. In the meantime, Bhola Paswan fired from his double barrel gun on the right side of the chest of the son of the informant and he fell down. The informant further alleged that this petitioner also fired upon his son and his son was shot dead on the spot.

Learned counsel for the petitioner submits that the prayer for bail of the petitioner was rejected on 20.11.2019 in Cr. Misc. No. 52120/2019 on the ground that there is specific allegation of commission of overt act against the petitioner and he had surrendered after 13 years. Thereafter another prayer for bail in Cr. Misc. No. 3826/2021 was rejected on 07.04.2021. This time the court had the privilege to hear learned Advocate General. This Court was informed that the prosecution evidence is at the fag end and only two witnesses are required to be examined, one of them is the Investigating Officer of the case.

On perusal of the order dated 07.04.2021, it would appear that the learned Advocate General had assured this Court that on the next date fixed in the matter the Investigating Officer of the case shall be produced and in this connection he would issue necessary instruction/direction to the local prosecuting officer and discuss the matter with the Superintendent of Police,



Bagaha. As regards one of the witnesses namely, Dashrath Yadav, it was informed that he is in jail in Deoria Jail (Uttar Pradesh) and the prosecution would take efforts to produce the said witness in the present case and it was further assured that in the name of production of the said witness the prosecution will not linger the matter. A further submission was made before this Court that within two dates fixed by the learned trial court if the said witness Dashrath Yadav is not produced, the learned trial court may consider closing the evidence of the prosecution and proceed with the trial. This statement, as recorded by this court in it's order, was made in order to ensure that the concept of speedy trial as indicated in the Amnesty Scheme is fully adhered to.

Taking note of the aforesaid submission of learned Advocate General, this Court refused the prayer for bail of the petitioner. In it's concluding paragraph, this Court recorded as under:-

“Instead, the trial court is expected to proceed with the trial granting a reasonable opportunity to the prosecution which will not be for a period of more than three months to produce all the remaining witnesses including the official witnesses. If the prosecution fails to produce the remaining witnesses within the said period, in terms of the assurance given to this Court by learned Advocate General, the trial court shall proceed to consider closure of evidence of the prosecution and to proceed further towards conclusion of trial preferably within a period of five



months from today.

If the trial is not concluded within a period of five months from today for no reason attributable to the petitioner, it will be open for the petitioner to make an application in the learned trial court itself praying for release on bail.....”

Learned counsel for the petitioner submits that during last sixteen (16) months not a single witness could be examined on behalf of the prosecution. The Investigating Officer who was supposed to appear on the very next date has not deposed. The petitioner had moved the learned trial court for grant of bail but the prayer has been refused vide order dated 17.09.2021.

On the request of this Court, learned Advocate General has made his appearance today. It is not denied as a matter of fact that the Investigating Officer has not deposed, some explanations were sought to be furnished to the court for his non-appearance in course of trial. The learned Advocate General does not dispute that the petitioner has remained in jail for almost nine years after his surrender in this case and normally even in a case of life convict this Court has been entertaining and granting prayer for bail of such convicts who have served the sentence for more than eight years but the appeal is not likely to be heard.

Having regard to the facts and circumstances and the entirety of the materials available on the record and the period



of incarceration of the petitioner as discussed here-in-above and no likelihood of the conclusion of trial in near future, this Court is of the considered opinion that the petitioner deserves privilege of bail. This Court accordingly directs release of the petitioner above-named 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. 94 of 2014 arising out of Chautarwa P.S. Case No. 106 of 2000, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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.

(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'.

