

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10188 of 2022

Arising Out of PS. Case No.-218 Year-2019 Thana- DURGAWATI District- Kaimur (Bhabua)

Mitesh Kumar @ Nitesh Kumar, Son of Mukhtar Singh Yadav @ Mukhtar Singh Resident of Village- Karamnasha, P.S.- Durgawati, District- Kaimur (Bhabhua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. P. K. Shahi, Sr. Adv.

Mr. Vipin Kumar, Adv.

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 31-08-2022 Learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter.

Heard learned senior counsel for the petitioner assisted by Mr. Vipin Kumar, learned advocate on record and Mr. Md. Fahimuddin, learned APP for the State.

This is the third attempt of the petitioner to obtain regular bail in connection with S. Tr. No.303/2019 arising out of Durgawati P.S. Case No.218/2019 registered for the offences punishable under Sections 302, 201, 396, 412 and 120(B)/34 of the Indian Penal Code. He is in custody since 08.09.2019. The petitioner has got no criminal antecedent.

Earlier the prayer for bail of the petitioner was rejected vide order dated 12.12.2019 and 18.08.2021. In its last



order dated 18.08.2021 passed in Cr. Misc. No.20778 of 2021, this Court took into consideration the trial court's report saying that the case is running at the stage of evidence of prosecution but the witnesses are not turning up because most of them are from the State of U.P. and Punjab. Some directions were also issued to the Superintendent of Police, Bhabhua at Kaimur to ensure the presence of all official and non-official witnesses. This Court observed that the trial be concluded as early as possible preferably within a period of six months which was stated by learned trial court in its report. The said period was to be counted from the date of start of physical functioning of the court and if the trial remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.

Learned counsel for the petitioner submits that much more than six months period after start of normal functioning of the court has elapsed but the trial has not progressed. It is submitted that still about ten witnesses were to be examined on the date of filing of the petition.

It is further submitted that this petitioner is in custody since 08.09.2019, has no criminal antecedent and some of the co-accused namely Akshay Kumar @ Nepali and Md. Hussain Ali @ Hussain Ali, who were identified by the witnesses, have



been granted bail by learned coordinate Benches of this Court in Cr.Misc.No.80745 of 2019 and Cr.Misc. No.76905 of 2019 respectively.

Mr. Md. Fahimuddin, learned APP for the State has not controverted the submissions made on behalf of the petitioner though he has opposed this application for grant of bail.

Considering the entirety of the facts and circumstances of the case, the fact that the petitioner has remained in custody for about three years and till date a substantial number of witnesses remain to be examined as a result whereof the trial is not likely to be concluded in near future and some of the co-accused have already been granted bail, therefore, this Court directs release of the petitioner above named on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-XI, Kaimur at Bhabhua in connection with S.Tr.No.303 of 2019 arising out of Durgawati P.S. Case No.218 of 2019, subject to the conditions 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.

Certified copy of the order will be made available only after removal of the defects.

(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'.

