

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10486 of 2022**

Arising Out of PS. Case No.-527 Year-2017 Thana- AMARPUR District- Banka

RAHUL KUMAR S/o Ghanshyam Rai R/o village- English, P.S.- Amarpur,
District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha, Advocate

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

3 13-04-2022 Heard the learned counsel for the petitioner and
the learned APP appearing for the State.

The present petition is by way of fourth attempt at the behest of the petitioner for grant of regular bail in connection with Amarpur PS case no. 527 of 2017, registered under Sections 304(B)/34 of Indian Penal Code, inasmuch as the earlier prayers of the petitioner for grant of bail have been rejected by the Hon'ble High Court.

The petitioner is alleged to have killed his wife on account of non-fulfilment of the demand for dowry.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 23.10.2017. The learned counsel for the petitioner



has further referred to the order of this Court dated 01.02.2021, wherein this Court had observed that in case, the trial is not concluded within a period of twelve months, the petitioner shall be at liberty to approach this Court for renewal of his prayer for bail. The learned counsel for the petitioner has further submitted that despite lapse of 12 months, there has been virtually no progress in the ongoing trial and there is no possibility of conclusion of the trial in the near future.

This Court, vide order dated 02.03.2022, had called for a report from the learned court below with regard to the present stage of the trial and the likely time to be consumed in completion of the trial, in pursuance whereof, the learned Additional District & Sessions Judge-I, Banka has submitted a report dated 07.03.2022, wherein it has been stated that out of the 10 charge sheet witnesses, 04 witnesses have been examined and as far as rest of the witnesses are concerned,ailable as well as non-ailable warrants of arrest have been issued *qua* the non-official witnesses, apart from issuance of summons against the official witnesses through the Superintendent of Police, Banka, however no execution report has been submitted. This Court feels that in case, there is laxity on the part of the witnesses to appear before the learned trial court as also in case,



there is any dereliction of duty on the part of the Superintendent of Police, Banka, the learned trial court has got sufficient powers to deal with such circumstances and this Court would expect the learned court below to act judiciously/ expeditiously and conclude the trial without any further delay, failing which, this Court may take serious action against the defaulter.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials on record, this Court finds that the petitioner is languishing in custody since about four and a half years and as per the report submitted by the learned Additional District & Sessions Judge-I, Banka dated 07.03.2022, there is no possibility of conclusion of the trial in the near future, hence this Court has got no option but to enlarge the petitioner on bail, inasmuch as deprivation of personal liberty without ensuring speedy trial infringes upon the right of the petitioner to life and liberty under Article 21 of the Constitution of India.

Accordingly, I deem it fit and proper to admit the petitioner to the privilege of bail, hence the abovenamed



petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of 1st Additional Sessions Judge, Banka.

(Mohit Kumar Shah, J)

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