

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37522 of 2022

Arising Out of PS. Case No.-51 Year-2019 Thana- KHODAWANDPUR District- Begusarai

Shiv Kumar Son of Ram Charitra Mahton R/O Village- Khodawanpur, P.S.-
Khodawanpur, Distt.- Begusarari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 13061 of 2022

Arising Out of PS. Case No.-51 Year-2019 Thana- KHODAWANDPUR District- Begusarai

Ram Sudin Mahto @ Ram Sudin Mahton son of ram chalitar mahton @ ram
charitra mahton resident of village- khodawandpur, p.s.- Khodawandpur,
District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 37522 of 2022)

For the Petitioner/s : Mr.Manoj Kumar Singh, Advocate

For the Opposite Party/s : Mr.APP

(In CRIMINAL MISCELLANEOUS No. 13061 of 2022)

For the Petitioner/s : Mr.Sandip Kumar Gautam, Advocate

For the Opposite Party/s : Mr.Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 22-11-2022 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period

of four weeks from today.

The petitioner seeks bail in connection with



Khodawanpur P.S. Case No. 51 of 2019 registered for the offence under Sections 341, 307, 504, 506 and 34 of the Indian Penal Code, under Section 27 of the Arms Act and Section 302 of the I.P.C. was added later on.

The accused/petitioner is named in the F.I.R. and is in custody since 07.06.2019.

The allegation against the petitioner is to commit the murder of the husband of the informant due to previous land dispute, along with other co-accused persons, by causing fire arm injury.

At the outset, learned counsel appearing on behalf of the petitioner submitted that prayer of bail of the petitioner was rejected by one of the learned Co-ordinate Bench of this Court on two different occasions, firstly, through Cr. Misc. No. 70442 of 2019 vide order dated 04.03.2020 and secondly, through Cr. Misc. No. 34712 of 2020 vide order dated 03.02.2021. It is submitted that petitioner is in custody since more than three and a half year (3 ½ years) and during this period only two (2) prosecution witnesses were examined where the chance of trial is not likely to be conclude in near future and certainly the petitioner cannot be kept behind the bar for any indefinite period of time. It is further submitted that two (2) witnesses were



examined before the learned Trial Court, where one witness has become hostile by not supporting the case of prosecution.

Learned APP, while opposing the prayer of bail submitted that prayer of bail of the petitioner, by taking note of available fact on merit has already rejected by this Court.

In view of the facts and circumstances as mentioned above, it appears that pressing of the present bail petition which is third attempt on behalf of the petitioner is only on the ground of custody period without any aid to merit of this case, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (six) months from the date of receipt of this order, by taking this matter on board, on day-to-day basis, if required. Petitioner shall be at liberty to renew the prayer of bail after six (6) months, if so advised.

The Superintendent of Police, Begusarai, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within specified time period, as directed above.



In Cr. Misc. No. 13061 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Khodawanpur P.S. Case No. 51 of 2019 registered for the offence under Sections 341, 307, 504, 506 and 34 of the Indian Penal Code, under Section 27 of the Arms Act and Section 302 of the I.P.C. was added later on.

The accused/petitioner is named in the F.I.R. and is in custody since 07.06.2019.

The allegation against the petitioner is to commit the murder of the husband of the informant due to previous land dispute, along with other co-accused persons, by causing fire arm injury.

Learned counsel appearing on behalf of the petitioner submitted that petitioner has falsely been implicated in the present case due to previous enmity which is founded over land dispute. It is submitted that informant not appears to be eye witness of the occurrence and entire allegations raised through suspicion which is evident from the fact as two bullet injuries



were found during post-mortem, in the background of allegations that indiscriminate firing was made, creating a doubt over the version of the FIR. It is further submitted that the two witnesses have already been examined, where one witness has become hostile by not supporting the case of prosecution. While concluding the argument, it is submitted that investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail submitted that bail prayer of the similarly situated co-accused person namely, Shiv Kumar, has already rejected by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 70442 of 2019 vide order dated 04.03.2020 and 34712 of 2020 vide order dated 03.02.2021.

In view of the facts and circumstances as mentioned above, as allegation of firing is specific against this petitioner which appears in corroboration with post-mortem report, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.



The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (six) months from the date of receipt of this order, by taking this matter on board, on day-to-day basis, if required. Petitioner shall be at liberty to renew the prayer of bail after six (6) months, if so advised.

The Superintendent of Police, Begusarai, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within specified time period, as directed above.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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