

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15664 of 2022

Arising Out of PS. Case No.-26 Year-1989 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

MD MUNAWWAR AKHTAR S/o Atiullah Resident of Village- Asthawan,
P.S.- Karandey, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director of Vigilance Department, Bihar, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Brajesh Prasad Gupta, Sr. Advocate
For the Opposite Party/s	:	Mr. Jitendra Kumar Singh, APP
For the Vigilance	:	Mrs. Archana Palkar Khopde, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 19-07-2022 Heard Mr. Brajesh Prasad Gupta, learned Sr. counsel
for the petitioner, Mr. Jitendra Kumar Singh, learned APP for
the State and Mrs. Archana Palkar Khopde for the Vigilance.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner has come into judicial custody on
24.09.2021 in connection with Kotwali (Munger) P.S. Case No.
26 of 1989 (corresponding to Special Vigilance Case No.
03/1989) for the offences under Sections 162 and 165(a) of the
Indian Penal Code and Section 3 of the Prevention of
Corruption Act.

As would reflect from the FIR itself, the matter
relates to 1989 and the allegation against the accused persons



were that they tried to bribe the District Magistrate, Munger by handing over an envelope consisting of currency notes to his Personal Assistant. The alleged envelop was handed over to the Personal Assistant by one Devanand Dubey and the accompanying envelope included the documents relating to the application of the petitioner herein for appointment purposes.

Accordingly, at that time, the petitioner sought and was granted anticipatory bail. However, thereafter, without informing the concerned Court (where his case was pending), he chose to leave the country. The bail bond naturally came to be cancelled and finally in 2021, the petitioner thought of surrendering before the law of the land and is in judicial custody since then.

Learned Senior Counsel for the petitioner submits that he was regularly and diligently appearing before the Trial Court through his lawyer, had informed the Bihar Bar Council (he claims himself to be a lawyer) about the fact that he is leaving the country. He further submits that the moment he came to know that his bail bond was cancelled, he chose to return to his motherland and surrendered before the Court. The further submission of the learned Senior Counsel is that if granted the privilege of bail, he is ready to abide by any terms and



conditions imposed by the Court.

Learned Senior Counsel for the petitioner has filed a supplementary affidavit and it is necessary to incorporate Paragraph Nos. 4, 5, 6, 8 and 9 of the said affidavit.

“4. that on 12.04.1989, the petitioner has been attending the Court regularly the charges were framed and were read over and explained to the petitioner and other accused persons on 03.04.1996.

5. that it further appears from the order sheet that during the trial also the petitioner remained present to face the trial. The prosecution produced it's 1st witness only one on 26.05.1999 on that day P.W. 1 & P.W. 2 were examined. In the similar minor the trial proceeded in extremely slow speed most of order sheet only indicate that the prosecution was directed to produce the witness or the case was transfer for one Court to another. From the order sheet, it appears that P.W.-5 was examined on 19.12.2001. Again the case was adjourned for the examination of the prosecution witnesses. To the information of the petitioner as per order sheet the petitioner remain present before the trial Court, till 18.12.2009. the order sheet further reveals that the examination of P.W. 5 has taken place on 19.12.2001 thereafter the prosecution could not proceeded with any witnesses till December, 2009.



6. that as stated in the year of 2010, the petitioner went the Saudi Arabiya to earn livelihood. The passport also indicated that he left the country on 1 August, 2010.

8. that the order sheet further disclosed that the petitioner has surrendered at his own on 22.09.2021.

9. that after the surrendered several dates were fixed in the case but prosecution could not produce any witness in the case.”

Mrs. Archana Palkar Khopde, learned counsel for the Vigilance submits that it was only due to the absence of the petitioner herein that in a case of 1989, the trial could not be concluded even after the lapse of more than 30 years, she has as such submitted that if the petitioner is released on bail, he may again leave the country thus putting a question mark on the conclusion of the trial. In short, she opposes the grant of bail to the petitioner herein.

The fact remains that the FIR was lodged in 1989 and it was the petitioner herein, who caused the delay in the conclusion of the trial inasmuch as after sometime, he only appeared through his lawyer and once he left the country in 2010, even his lawyer chose to abstain himself leading to the cancellation of his bail bond. This forced the petitioner to finally



surrender on 24.09.2021.

However, taking into account the fact that the petitioner has surrendered on his own and is in jail since 24.09.2021, this Court is inclined to grant him the privilege of bail. But in view of the fact that the FIR is of 1989 and the conduct of the petitioner cannot be said to be satisfactory, strict conditions are necessary to be imposed so that he is present and cooperate in the trial and take the same to its logical conclusion.

Let the petitioner be released on bail on furnishing bail bond of Rs. 100000/- (One lakh) with two sureties of like amount each to the satisfaction of 2nd Additional District and Sessions Judge cum Special Judge, Bhagalpur in connection with Kotwali (Munger) P.S. Case No. 26 of 1989 (corresponding to Special Vigilance Case No. 03/1989), subject to the following conditions.

(i) both the bailors should be the Government Servants, who shall provide official documents to show his/her *bona fide*;

(ii) the petitioner will surrender his Passport before the Trial Court and the same will be in possession of the Trial Court till the conclusion of the trial;



(iii) considering the fact that the matter is of 1989, the Trial Court shall ensure that the trial is concluded at an earliest preferably within a period of six months, failing which a report be submitted stating the reasons for the delay;

(iv) the petitioner will present himself before the Trial Court on each and every date and failure to do so on even one occasion without any valid reason will result into cancellation of his bail.

(v) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(vi) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(vii) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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