

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31497 of 2021

Arising Out of PS. Case No.-181 Year-2016 Thana- BAHERI District- Darbhanga

Sri Bappi Majumdar, S/O Nantu Majumdar, Resident Of 17, Vaishali Park Road, Harinavi, Ps. Sonarpur, District-South 24, West Bengal.

... .. Petitioner

Versus

1. The State of Bihar
2. Vikash Kumar, son of Late Ram Narayan Sahu, Resident of village – Baheri, District – Darbhanga.

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Sinha, Advocate Mr. Kuldeep Sahay, Advocate
For the State	:	Mr. Shantanu Kumar, A.P.P.
For the Informant	:	Mr. Kamlesh Kumar, Advocate Ms. Kahkashan Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

13 23-02-2022 Heard Mr. Amaresh Kumar Sinha, learned counsel for the petitioner, Mr. Kamlesh Kumar, learned counsel for the informant and Mr. Shantanu Kumar, learned A.P.P. for the State.

This is the second attempt of the petitioner to obtain bail in connection with Baheri P.S. Case No. 181 of 2016 registered for the offences punishable under Sections 406, 420, 467, 468, 469 and 120B of the Indian Penal Code.

Earlier the prayer for bail of the petitioner was rejected vide order dated 25.06.2020 passed in Cr. Misc. No. 19537/2020.

Learned counsel for the petitioner submits that in the supplementary affidavit, the petitioner has disclosed that he has



got minority share holding in the company. He holds only 2500 shares as against the total 50,000 shares issued and subscribed. He was also not amongst the first directors of the company. Learned counsel submits that the petitioner has got criminal antecedent of two cases of similar nature but in both the cases he is on bail by virtue of orders passed by learned coordinate Benches of this Court in Cr. Misc. No. 78796/2019 and Cr. Misc. No. 73664/2019. It is his submission that the petitioner is in custody since 27.09.2019, but till date charge has not been framed.

It is pointed out that the co-accused Bappaditya Majumdar, who was the Managing Director of the Company, is lying in Mathura Jail and there are other five co-accused, in absence of their appearance being completed the case is not proceeding and it is not known as to how much time will be taken in conclusion of trial. It is, thus, submitted that the petitioner may be enlarged on bail subject to such terms and conditions which may be imposed upon him to secure his presence.

On the other hand, learned counsel for the informant has opposed the prayer for bail of the petitioner. It is submitted that the petitioner happened to be the founder member of the



company and in a conspiracy with the Managing Director the investors have been duped. Learned counsel submits that though the petitioner is in custody for about two and half years but the trial has not proceeded mainly because the co-accused has not been produced before the learned trial court from Mathura Jail. The submission is that this Court may direct the learned court below to conclude the trial within a reasonable period and at this stage the petitioner does not deserve privilege of bail.

Learned A.P.P. for the State has also opposed the prayer for regular bail of the petitioner.

Considering the facts and circumstances of the case, this Court has noticed that the allegation against the petitioner is that of duping the depositors, his prayer for bail has been rejected earlier, but despite passing of more than one and half year approximately from the date of last rejection, the trial has not proceeded.

Considering that the petitioner was a founder member of the company though the Court is not feeling inclined to enlarge the petitioner on bail at this stage, but at the same time, balancing the interest of the prosecution and the right of speedy trial of an accused, this Court is of the considered opinion that the prosecution must cooperate in conclusion of trial by



producing the accused persons and the witnesses as early as possible and all endeavours be made to conclude the trial within a period of six months from the date of communication of this order.

If the co-accused are not produced despite several orders of the Court, the learned court below shall consider bifurcating the records and take up the trial of the petitioner within a period of two months from the date of communication of this order.

Despite all these directions, if the trial is not concluded within a given period of six months, as stated above, it will be taken as failure on the part of prosecution, and, in such circumstance, the petitioner shall be enlarged on bail by the learned court below subject to submission of bail bonds and other conditions to the satisfaction of the trial court.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

