

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20013 of 2022

Arising Out of PS. Case No.-28 Year-2015 Thana- MADHWAPUR District- Madhubani

SUBHASH MAHASETH Son of Sri Shambhu Mahaseth Resident of Village
- Pirokhar, P.S.- Madhwapur, Distt. - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Udbhav, Advocate

For the Opposite Party/s : Mr. Tarun Prasad Mandal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 20-04-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks after complete start of the physical Court.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 147, 148, 149, 447, 341,
323, 504 and 364 of the Indian Penal Code.

The present bail application has been filed in terms of
the liberty granted to the petitioner by order dated 06.01.2022 in
Cr. Misc. No. 45950 of 2021 to renew his prayer for bail after
moving the learned court below.

Learned counsel for the petitioner submits that bail of
the petitioner was rejected third time vide order dated
17.07.2019 in Cr. Misc. No. 31932 of 2019 with a liberty to the
petitioner to renew his prayer for bail if the trial is not



completed within nine months. As such, the petitioner had filed Cr. Misc. No. 45950 of 2021 but the said bail application was completely silent with regard to the stage of the trial, whether prosecution cooperated in the trial or not, how many witnesses have been examined, how many witnesses are left to be examined, rather an innocuous and cryptic pleading was made at paragraph 9 of the bail application stating that till date the trial has not been completed.

In such view of the matter, the aforesaid liberty was granted to the petitioner by order dated 06.01.2022.

Learned counsel for the petitioner submits that the petitioner is in custody since 31.03.2016 and has antecedent of two cases, charges have been framed and the trial has commenced. It is submitted that charges were framed on 19.05.2017 and till 07.12.2017 not a single witness turned up and, thus, N.B.W. was issued for securing the attendance of the witnesses and the next date fixed was on 11.01.2018. It is submitted that in between 11.01.2018 to 03.06.2018 none of the witnesses turned up and on 04.06.2018 one witness, namely, Pulkit Sahani appeared but prosecution filed an application that they do not want to examine the said witness as he had shifted to the camp of the accused. Thereafter, on 13.09.2018, P.W.



Yogendra Maha Seth appeared whose examination ended on 28.09.2018 and was discharged. It is submitted that thereafter on 17.12.2018 Dr. B.N. Jha was examined, though he was not a charge sheet witness, thereafter on 18.03.2019 again Raj Deo Paswan was examined who also was not a charge sheet witness and after 18.03.2019 till 21.02.2022 no other witnesses have been examined despite issuance of non-bailable warrant of arrest. Learned counsel, thus, submits that out of five charge-sheet witnesses only one witness has been examined and Pulkit Sahani though appeared but was not examined, as aforesaid. Learned counsel for the petitioner in support of his submission has annexed the order sheet of the learned court below which is annexed as Annexure-3 to the bail application.

Considering the fact that the petitioner is in custody since 31.03.2016, charges have been framed and despite endeavours made by the learned court below apart from one witness no other charge sheet witnesses have been examined, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Sessions Trial No. 01 of 2017 arising out of Madhwapur



P.S. Case No. 28 of 2015, subject to the condition that if the learned court below comes to a considered conclusion that the petitioner after his release is trying to delay the trial then in that event, after recording reasons, the learned court below shall forthwith cancel the bail bond of the petitioner.

(Satyavrat Verma, J)

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