

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23191 of 2022

Arising Out of PS. Case No.-572 Year-2018 Thana- BIKRAMGANJ District- Rohtas

AKHILESH RAI, Son of Late Shivji Ray Resident of Village - Baruna, P.S.-
Bikramganj, District - Rohtas.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Sunil Kumar Pathak, Advocate
For the Opposite Party	:	Mr.Sadanand Roy, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 14-12-2022 Learned counsel for the petitioner is permitted to
remove the defects in course of the day.

With the consent of learned counsel for the informant
and the State, the matter has been taken up for consideration.

This is the third attempt of the petitioner to obtain bail
in connection with Bikramganj P.S. Case No. 572 of 2018
registered for the offences punishable under Section
302/120B/34 of the Indian Penal Code and Section 27 of the
Arms Act. Petitioner is in custody since 01.04.2019. He has no
criminal antecedent.

As per the First Information Report, the alleged
occurrence took place on 19.12.2018 at about 5:15 P.M. in which
the while the informant along with his brother (deceased)



was going towards the eastern side of the village, the co-villagers who were nine in numbers and have been named in the F.I.R. including this petitioner stopped the informant and his brother and it is alleged that this petitioner pointed the rifle and all other accused surrounded them. It is alleged that the informant and his brother tried to escape but the petitioner fired from his rifle as a result whereof the brother of the informant suffered fire arm injury on his chest and he fell down.

Learned counsel for the petitioner submits that this Court rejected the prayer for bail of the petitioner for the first time in Cr. Misc. No. 67937 of 2019 on 18.11.2019. In the second attempt, this Court considered Cr. Misc. No. 13564 of 2021, called for a report from the learned trial court wherein it was informed that the charge had already been framed in this case on 12.02.2020 and thereafter summons and bailable warrants had been issued to the prosecution witnesses, and the learned trial court gave a report that the trial is likely to be concluded within six months on the resumption of physical mode of the court.

Considering the report of the learned trial court, this Court, though refused to enlarge the petitioner on bail but granted liberty to the petitioner to renew his prayer for bail if the trial remains unconcluded within the aforesaid period for no



reason attributable to the petitioner. It is submitted that at this stage one year three months have passed from the date of passing of the last order by this Court on 04.09.2021 but the trial has not progressed.

This Court has once again called for a report from the learned trial court. The report as contained in letter no. 108 dated 18th October, 2022 shows that non-bailable warrant of arrests were issued on 17.09.2021 against all non official witnesses. On 28.09.2021, one witness namely, Nanhak Rai was produced by the prosecution but his cross-examination could not be completed that day, at the relevant time the post-mortem report was not available on the record, therefore, the learned defence counsel denied further cross-examination. It is further stated that the original post-mortem report was later on received but thereafter the prosecution neither produced Nanhak Rai nor any witness on the date fixed.

A report has been received from the office of Superintendent of Police, Rohtas, Dehri-on-Sone dated 18.10.2022 wherein it is stated that Nanhak Rai was made accused in a case registered with Bikramganj Police Station and due to fear of his arrest he is absconding. The prosecution did not try to close the evidence of the witness Nanhak Rai due to



which no other witness could be produced before the learned court. In the meantime the informant Kameshwar Rai has expired and the witness Bhola Shankar Rai has been arrested and sent to judicial custody. Other witness Hareram Rai and Chandra Shekhar Rai have also been arrested.

Learned counsel for the informant has though opposed the prayer for bail of the petitioner but is unable to say as to why the prosecution witnesses are not putting appearance despite issuance of nonailable warrants against them.

Be that as it may, at this stage, considering the report of the learned trial court, this Court is granting four months further time to the prosecution to produce the witnesses on the date fixed in the matter. For this purpose, the learned trial court shall keep the records on day to day basis. The prosecution must cooperate. If the trial still remains unconcluded for no reason attributable to the petitioner, the petitioner shall be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.D.J.VIII, Rohtas, Sasaram in connection with Bikramganj P.S. Case No. 572 of 2018, and other conditions which may be imposed by the learned trial



it will be subject to the conditions as laid down under Section
437 (3) Cr.P.C.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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