

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38079 of 2021**

Arising Out of PS. Case No.-168 Year-2005 Thana- NAWANAGAR District- Buxar

=====

DHARMDEO YADAV @ DHARMDEO SINGH @ DHARMA DEV SINGH
@ DHARMA DEV SINGH YADAV @ DHERMDEO SINGH S/O Late
Basdeo Singh Yadav R/O Vill.- Mania, P.S. Nawanagar (Sonbarsa O.P.), Dist.
- Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma

For the Opposite Party/s : Ms. Anita Kumari APP

=====

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

4 13-04-2022 Heard the parties.

Petitioner renews his prayer for regular bail in connection with Sessions Trial No. 132 of 2015 arising out of Nawanagar PS Case No. 168 of 2005, GR No. 1934 of 2005 registered for the offence under Sections 302 / 34 of the I.P.C. and Section 27 of the Arms Act.

The allegation against the petitioner is that petitioner along with other accused persons fired upon the informant's uncle due to which he died on the spot.

Learned counsel for the petitioner submits that petitioner was arrested in the year 2015 and he was absconding for the last eleven (11) years. Accordingly, his trial was



bifurcated and Sessions Trial No. 132 of 2015 was started against the petitioner which is pending in the court of learned Additional Sessions Judge - VIII, Buxar. Accordingly, submissions is that petitioner remained in custody for about more than 6 ½ years and taking into consideration the period of custody of the petitioner, this Court may consider to release him on bail. From the impugned order it appears that trial of the petitioner is on the verge of completion.

This court vide its order dated 18/01/2022 has called for a report regarding the stage of the trial and in pursuance thereof report has been furnished by learned Addl. District & Sessions Judge- XIth, Buxar vide letter no. 16 dated 14/02/2022 and from perusal of the same it appears that on 16-09-2019 the defence evidence was closed and record was fixed for argument. A petition dated 08/02/2021 was filed by the prosecution regarding call for original F.I.R., case diary and post-mortem report from original record of S.Tr. No. 296 of 2006 which has been sent to the High Court in Appeal against conviction filed by other co-accused persons.

Taking into consideration the fact that trial is on the verge of completion, I am not inclined to grant regular bail to the petitioner at this stage.



Accordingly, the prayer for grant of regular bail is rejected.

However, this Court called for the Lower Court Records kept in Cr. Appeal (DB) No. 1251 of 2007 & Cr. Appeal (DB) No. 1199 of 2007 in connection with S.Tr. No. 296 of 2006.

The Standing Committee of this Court has taken a policy decision on 8th January, 2019 with regard to the L.C.R. in the following manner:-

“The order of the Apex Court was perused and the Committee is of the opinion that the clear intention of the directions is to ensure that the lower court records are to be summoned and retained in original only in cases where trials have been finally terminated and stand disposed of. There are many cases in which either the trial is still pending or there are split trials and therefore in such cases the lower court records should remain with the lower court with a photo stat copy being sent to the High court for its perusal. However, in any such extreme case where the lower court records, in original, are essential for perusal, the same may be summoned but it should be sent back immediately after perusal and should not be retained in the High Court so as to cause any impediment in disposal of the case pending in the lower court.”

Accordingly, let the original First Information Report, case diary and post mortem examination report, kept in the L.C.R. of Sessions Trial No. 296 of 2006 called in Cr. Appeal (DB) Nos. 1251 & 1199 of 2007 be sent back to the learned court below in the connecting Sessions Trial No. 132 of 2015



and photo stat copies of the aforesaid documents / entire records
/ L.C.R. be retained by the Office for the purpose of deciding
the aforesaid pending appeals before this Court.

It is made clear that after receipt of the aforesaid
documents / Lower Court Records in original, the learned trial
court will conclude the trial expeditiously.

(Anil Kumar Sinha, J)

praful/-

U		T	
---	--	---	--

