

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.49493 of 2021**

Arising Out of PS. Case No.-44 Year-2020 Thana- RAJGIR District- Nalanda

Prabhat Yadav Son Of Yogendra Yadav Resident Of Village- Barchhi Bigha,
P.S.- Giriyak, District- Nalanda.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Akhileshwar Dayal, APP
For the Informant	:	Mr. Ramakant Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 09-02-2022 Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Akhileshwar Dayal, learned APP for the State.

This is the second attempt of the petitioner to obtain regular bail in connection with Rajgir P.S. Case No. 44 of 2020 registered for the offences punishable under Sections 147, 148, 149 and 302 of the Indian Penal Code.

Earlier his prayer for bail was rejected vide order dated 22.01.2021 passed in Cr. Misc. No. 30512 of 2020 with a direction to the learned court below to take all endeavours to conclude the trial within a period of 6 months from the date of receipt/production of a copy of this order.

This Court called for a report from the learned trial court in the present case. The report is available on the record.



Reasons have been shown therein for some delay in conclusion of the trial and a request has been made to extend the period for conclusion of trial by 3 months.

Learned counsel for the petitioner submits that in this case till date not a single witness has been examined.

Learned counsel for the informant submits that the prosecution witnesses are going to the court on the date fixed in the matter but for one reason or another the witnesses have not been examined.

The report received from learned Incharge Additional District and Sessions Judge III, Biharshariff, Nalanda shows that on 07.10.2021 non-bailable warrants have been issued against the independent witnesses and prosecution was called upon to produce the witnesses. On 17.11.2021 witness was present but because the Presiding Officer of the court was on leave, therefore, the witness could not be examined. Again on 30.11.2021 the prosecution witness was present but the Presiding Officer was on leave, therefore, the witness could not be examined.

Learned APP for the State has submitted that earlier while rejecting the prayer for bail of the petitioner, this Court has noticed that there were multiple injuries on the vital parts of



the body of the deceased and the same has been pointed out by the doctor conducting the post-mortem and further that the petitioner has got 7 criminal antecedents, considering this aspect of the matter, according to the learned APP no fresh ground for bail has been made out.

In the given facts and circumstance and taking note of the stage of the trial wherein the case is fixed for evidence and the prosecution witnesses are presenting themselves but they have not been examined because the Presiding Officer of the court was on leave, this Court is not inclined to release the petitioner on bail.

This Court finds that despite the presence of the witnesses they were returned, this cannot be said to be in terms of the mandates issued by this Court as well as the Hon'ble Supreme Court on several occasions that the witnesses should not be returned. This Court is unable to understand as to why the Incharge court did not show sensitiveness and record the statement of the witnesses when they were present and the parties were cooperating.

Let a copy of this order be sent to the learned District and Sessions Judge, Biharshariff, Nalanda to ensure that no prosecution witnesses be returned henceforth and the records of



this case be kept on shorter dates, all endeavours be made to conclude the trial within the period as prayed for.

The public Prosecutor shall produce all the official witnesses as well on the date fixed.

Learned trial court has requested for extension of three months' time. This Court expects that the trial court shall conclude the trial within a period of 3 months from the date of communication of this order.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

