

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.49513 of 2021**

Arising Out of PS. Case No.-208 Year-2019 Thana- PURAINI District- Madhepura

Suraj Bhagat @ Suraj Kumar @ Chhotu Son Of Pavan Bhagat @ Pawan Bhagat @ Paban Bhagat Resident Of Puraini Bazar, P.S.- Puraini, District-Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. Bakshi S.R.P. Sinha, Sr. Advocate Mr. Rupesh Kumar, Advocate
For the Opposite Party/s :	Mr.Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 09-02-2022 Heard Mr. Bakshi S.R.P. Sinha, learned Senior Counsel assisted by Mr. Rupesh Kumar, learned counsel for the petitioner and Mr. Md. Fahimuddin, learned APP for the State.

This is the second attempt of the petitioner to obtain regular bail in connection with Puraini P.S. Case No. 208 of 2019 registered for the offences punishable under Sections 302, 34 of the Indian Penal Code and Section 27 of the Arms Act.

Earlier his prayer for bail was rejected by this Court vide order dated 02.03.2021 passed in Cr. Misc. No. 39054 of 2020. The rejection was based on two grounds, firstly that he has got 6 criminal antecedents and has been identified as a member of the gang of betting in the area who is involved in making rangdari and further that there are two eye witnesses in



paragraphs '27' and '28' of the case diary who have named this petitioner.

Learned counsel for the petitioner submits that after rejection of the prayer for bail of the petitioner, the trial has proceeded and in course of trial the two witnesses named in paragraphs '27' and '28' of the case diary have been examined. They have not supported the prosecution case and have been declared hostile.

Learned Senior Counsel further submits that for no fault on his part the petitioner has been languishing in judicial custody as the trial has not been concluded even as the petitioner is in custody since 19.05.2020.

On the other hand, learned APP for the State submits that this petitioner has got substantial number of criminal antecedents and if released on bail at this stage when the trial is going on, there is every possibility that the prosecution witnesses will be threatened and no one would come to depose against him.

This Court has called for a report from the learned trial court. From the said report, it appears that there are altogether 9 witnesses in the chargesheet out of which two witnesses were examined till 20.03.2021. Due to Covid-19



situation there have been some limited running of the court, however, the court has started running physically from 24.11.2021 and now 7 witnesses including informant, I.O. and medical officer are to be examined. The learned trial court has given to understand in its report dated 30.11.2021 that the trial is expected to be concluded within 6 months on priority basis.

Considering the entirety of the facts and circumstances, the fact that the petitioner has got 6 criminal antecedents and the trial is in the midst as the prosecution witnesses including the informant are yet to be examined, this Court is not inclined to grant bail to the petitioner at this stage.

As per the report of the learned trial court, it is expected that the trial shall be concluded within 6 months.

The Public Prosecutor and the Superintendent of Police, Madhepura are directed to produce all the prosecution witnesses on the date fixed in the matter and cooperate in early conclusion of trial.

If the witnesses are not produced on the date fixed in the matter, it will be taken as failure of the prosecution.

In such circumstance, if the trial remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail in the learned court below itself.



This Court has earlier noticed that one of the accused was transferred to Central Jail, Buxar for 6 months’ period by order of IG Prisons and Correctional Services, Bihar, Patna and that has also been a reason of delay in conclusion of trial. The IG, Prisons and Correctional Services, Bihar, Patna shall ensure that the trial is not delayed due to non-production of the said under-trial prisoner namely Vicky Mehta @ Vikash Kumar.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

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

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’.

