

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55942 of 2021

Arising Out of PS. Case No.-302 Year-2018 Thana- JAMUI District- Jamui

Muhammad Ilyas @ Ilyas @ Md. Ilyas @ Ilyas Mian Son Of Md. Saleem @
Saleem Miyan R/O Amarnath (NAYA Tola), P.S.- Jamui, Dist.- Jamui

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akshansh Ankit, Adv.

For the Opposite Party/s : Mr.Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 28-04-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Shailendra Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Jamui P.S. Case No.302 of 2018 registered for the offences punishable under Sections 302 and 120B/34 of the Indian Penal Code. He is in custody since 01.08.2018. The petitioner has got no criminal antecedent.

Earlier the prayer for bail of the petitioner has been rejected by this Court twice. While rejecting his prayer for bail on 05.02.2020, this Court observed that the petitioner may renew his prayer for bail again before the learned trial court and



the same shall be considered on the basis of the materials which has been brought on record.

Learned counsel for the petitioner submits that when the prayer for bail was renewed before the learned trial court, the same has been rejected without considering the materials on the record and simply by taking note of the fact that now only one witness has remained to be examined.

Learned counsel submits that had the trial court examined the materials available on the record, perhaps the petitioner's case should have been properly appreciated.

Learned APP for the State has opposed the prayer for regular bail of the petitioner. It is submitted that even as the learned counsel for the petitioner has made submissions before the learned trial court pointing out the materials which have been collected in course of trial, before this Court no such material has been placed for consideration.

This Court had called for a report from the learned trial court. This Court has been informed that the case was fixed for evidence of the last witness on 08.04.2022. The learned trial Court has assured this Court to procure the attendance and examination of the remaining witness on the next date.

Having heard learned counsel for the petitioner and



learned APP for the State, in absence of relevant materials on the basis of which the case of the petitioner was pleaded in the learned court below, this Court is unable to examine as to whether the petitioner deserves privilege of bail at this stage. Nevertheless, this Court finds that the learned trial court while rejecting the prayer for bail of the petitioner has not at all considered the materials available on the record and the rejection is not on that ground, therefore, this Court is of the considered opinion that in case the prosecution evidence has not been closed till now, the petitioner will move afresh for consideration of his prayer for bail which will be considered by the learned court below on the basis of the materials available on the record.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

arvind/-

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'.

