

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.54613 of 2021**

Arising Out of PS. Case No.-307 Year-2018 Thana- TEKARI District- Gaya

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Gajni @ Vickky @ Galni, S/O Md. Khaliq, R/O Village-Andar Kila Tekari,
P.S.-TEKARI, District-Gaya Petitioner

Versus

The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sheikh Arkan Ahmad, Advocate
For the Opposite Party/s : Mr. Md. Nazir Ansari, A.P.P.

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

4 19-01-2022 Learned counsel for the petitioner undertakes to remove the defects as pointed out by the Stamp Reporter within four weeks after start of normal functioning of this Court.

Heard learned counsel for the petitioner and Mr. Md. Nazir Ansari, learned APP for the State.

This is the third attempt of the petitioner to obtain bail in connection with Tekari P.S. Case No. 307 of 2018 registered for the offences punishable under Section 25 (1-b)a, 26, 27 of the Arms Act and Section 20 of the Narcotic Drugs and Psychotropic Substances Act. The petitioner is in custody since 16.08.2018.

Earlier when the petitioner moved this Court in Cr. Misc. No. 25495 of 2019 a learned coordinate Bench of this Court rejected his prayer on 22.05.2019 with liberty to the petitioner to renew his prayer for bail if the trial is not concluded within a period of six months.

In his second attempt when Cr. Misc. No. 87299 of



2019 came to be considered on 05.04.2021, this Court noticed the fact that in this case charge has been framed on 01.04.2019, summons and bailable warrants have been issued against the prosecution witnesses but till date not a single witness has been examined on behalf of the prosecution for evidence. Still considering the gravity of the offence showing two country made pistols, 6-7 cartridges as well as 6.50 gms. Ganja recovered from the possession of the petitioner and that he has got 11 cases on his head, this Court did not feel inclined to enlarge the petitioner on bail at this stage. Considering that the petitioner was in custody since 16.08.2018, this Court thought it just and proper to direct the learned court below not to grant any adjournment and to proceed with the matter on day to day basis. The S.S.P./S.P., Gaya was directed to execute the warrant against the prosecution witnesses and produce them before the learned court below for evidence on the date fixed in the matter. The Public Prosecutor and the person in-charge of the prosecution were directed to ensure that all the prosecution witnesses are produced. This Court then observed that “still for no reason attributable to the petitioner if the trial is not concluded within a period of four months from today, he may renew his prayer for bail.”

The petitioner has renewed his bail and this time the Court called for a report from the learned trial court. The report as



contained in letter no. 314 dated 07.12.2021 of the learned court below shows that till date no prosecution witness has been examined. The S.S.P., Gaya has issued Memo No. 260 dated 02.09.2021 to S.P., Reserve Force, Gaya and Memo No. 4925 dated 07.09.2021 to S.P., Samastipur for production of the prosecution witnesses. The copy of the letters have been sent to this Court.

Learned counsel for the petitioner submits that the petitioner has already spent three and half years approximately in jail in connection with this case and despite the direction of this Court the things have not moved. It is the prosecution alone who has failed to produce witnesses and is responsible for delaying the trial. So far as the present case is concerned, the quantity of Ganja recovered from the petitioner is merely 6.50 gms. which is much less than the small quantity. According to the petitioner he has got knowledge of nine cases and in all those cases, he is on bail. Under these circumstances, learned counsel prays to release the petitioner on bail subject to such terms and conditions which may be deemed just and proper.

Mr. Md. Nazir Ansari, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but this Court having noticed that earlier on two occasions, this Court had given observation granting liberty to the petitioner to renew his prayer



for bail after some time expecting that the prosecution shall cooperate in conclusion of trial by producing the witnesses but despite indulgence granted to the prosecution they have failed to produce the witnesses, the petitioner has already spent about three and half years in custody in connection with this case, therefore, he cannot be kept in custody by way of punishment and this Court is of the opinion that his further incarceration in custody is not likely to come in aid of prosecution.

Under these circumstances, while recording that in this case despite order of this Court the prosecution has miserably failed to cooperate in course of trial, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge- 1st , Gaya in connection with Tekari P.S. Case No. 307 of 2018, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

And further condition that till conclusion of trial the petitioner shall mark his attendance once in every two months before the S.H.O. of Tekari police station in the District of Gaya and shall keep on furnishing his complete whereabouts and mobile number to the S.H.O. If he is required to go outside the jurisdiction of the police station in connection with any employment etc. then



also he will furnish his address and other information to the S.H.O. Non-compliance with this condition shall be reported by the S.H.O. of Tekari police station to the learned court below and steps shall be taken for cancellation of the bail of the petitioner.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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'.

