

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.60898 of 2021**

Arising Out of PS. Case No.-578 Year-2019 Thana- BHABHUA District- Kaimur (Bhabua)

Chandrama Mallah, S/O Nagendra Mallah @ Nagendra Nisad, R/O Village-
Bhagwanpur, P.O. And P.S.-BHAGWANPUR, District-Kaimur (BHABHUA)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Amaresh Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Umeshanand Pandit, A.P.P.

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

4 12-01-2022 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. Umeshanand Pandit, learned APP for the State.

This is the third attempt of the petitioner to obtain bail in connection with Bhabhua (Sonhan) P.S. Case no. 578 of 20219 (Sessions Trial No. 225 of 2019) registered for the offences punishable under Section 363 of the Indian Penal Code and subsequently Section 364(A)/34 of the Indian Penal Code and Section 25(1-b)A/26/35 of the Arms Act were added. The petitioner is in custody since 29.09.2019. He has otherwise no criminal antecedent.



Learned counsel for the petitioner submits that earlier his prayer for bail was rejected by a learned coordinate Bench of this Court after taking note of the statement in paragraph '31' of the case diary in which it was stated that the victim boy was recovered from the room in which the petitioner along with two others were found present and they were arrested from there.

Learned counsel submits that in the second attempt vide Cr. Misc. No. 40392 of 2020, this Court while directing the learned trial court to proceed with the trial on day to day basis without granting unnecessary adjournments and conclude the trial preferably within a period of six months and if the trial remains unconcluded within the aforesaid period for no reason attributable to the petitioner, he may renew his prayer for bail.

Learned counsel submits that in fact the report which has been received from the learned trial court would show that in this case the prosecution evidence was closed earlier but after closure of evidence the prosecution filed a petition for adducing evidence of one witness who was in-charge of the Malkhana. It is, thus, submitted that for no fault on the part of the petitioner the trial has remained unconcluded and now during the third wave of pandemic going on the court is working in limited manner, the trial is not likely to be concluded very soon.



Learned counsel has also drawn the attention of this Court towards the materials which have come in course of trial. It is submitted that in the Test Identification Parade this petitioner was not identified by the victim boy and the person who was named by him saying that he had taken him on the motorcycle and had confined him in the room had been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 25786 of 2020.

Learned counsel further submits that the learned Magistrate in whom presence, the Test Identification Parade was conducted has also deposed that this petitioner was not identified by the victim. The victim has made statement that he was studying at the relevant time and was residing with his elder sister when he was kidnapped. He, however, says that he cannot say that who had kidnapped him.

Learned counsel submits that in such circumstance when the co-accused who was named by the victim boy earlier has been granted bail by a learned coordinate Bench of this Court and as per observation of this Court, the trial has not been concluded and the petitioner is in custody since 29.09.2019, now that the statement of all the material witnesses have taken place, no fruitful purpose would be served keeping the petitioner



behind the bar, he has otherwise no criminal antecedent.

Mr. Umeshanand Pandit, learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner but considering the kind of materials placed before this Court, the custody of more than two years and the fact that the prosecution has filed petition for further adducing evidence even though the prosecution evidence had already been closed, there being no fault on the part of the petitioner in conclusion of trial and the co-accused Pramod has been granted bail by this Court, this Court directs release of the petitioner above named on bail on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge III, Kaimur at Bhabhua in connection with Bhabhua (Sonhan) P.S. Case no. 578 of 20219 (Sessions Trial No. 225 of 2019), subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

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 allowed.

(Rajeev Ranjan Prasad, J)

vats/-

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'.

