

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63896 of 2021

Arising Out of PS. Case No.-184 Year-2019 Thana- SALIMPUR District- Patna

VIKASH KUMAR SRIVASTAV @ VIKASH KUMAR SRIVASTAVA Son of
Prem Lal Srivastav @ Prem Kumar Resident of Village - Dundi Bazar, P.S.-
Chowk, Distt.- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 06-04-2022 Heard the learned counsel for the petitioner and the
learned APP appearing for the State.

The present petition is by way of third attempt at the behest of the petitioner for grant of regular bail in connection with Salimpur PS case no. 184 of 2019, registered under Section 365 of Indian Penal Code, inasmuch as the earlier prayer of the petitioner for grant of bail was rejected vide order dated 02.12.2020, passed in Cr. Misc. no. 18317 of 2020 as also by an order dated 14.07.2021, passed in Cr. Misc. no. 24379 of 2021.

The case of the prosecution in brief is that on 04.09.2019 at about 9 am, the son of the informant aged about 18 years, had gone out of his house, whereafter he had become traceless. Subsequently, during the course of investigation, the complicity of the petitioner in the alleged crime, has come to



the fore.

The learned counsel for the petitioner has submitted that the petitioner has not been named in the F.I.R. and he has been roped in the present case merely on suspicion upon the confessional statement made by the other co-accused persons, hence, the petitioner has got no role to place in the alleged occurrence and he is innocent. It is also submitted that the petitioner is having a clean antecedent and he is languishing in custody since 13.09.2019. The learned counsel for the petitioner has further submitted that the mobile phone of the victim boy has been recovered from the co-accused person namely Saurav and since the said Saurav was having animosity with the petitioner herein, he has falsely implicated the petitioner. It is also submitted that the charge-sheet has been filed and the investigation is complete. The learned counsel for the petitioner has further contended that when the petitioner had approached this Court on second occasion for grant of bail, this Court vide order dated 14.07.2021, had disposed off the said bail petition with liberty to the petitioner to renew his prayer for bail after framing of charge by the learned trial court. It is thus submitted that since the learned court below has already framed the charge vide order dated 21.09.2021, passed in connection with G.R. no. 1357 of 2019, the petitioner be granted the privilege of bail.



Lastly, it is submitted that the trial in question is not progressing, inasmuch as the concerned Court is vacant since a long time.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and have gone through the materials on record, from which I find that the petitioner had approached this Court earlier for grant of bail and this Court vide order dated 14.07.2021 had granted liberty to the petitioner to renew his prayer for bail after framing of charge, which has now stood framed vide order dated 21.09.2021, passed by the learned court below. This Court further finds that the petitioner is languishing in custody since 13.09.2019 i.e. since about two and a half years, however, as far as the stage of the trial is concerned, the learned court below, vide letter dated 09.03.2022, has informed that the prosecution witnesses are yet to be examined and till date none of them has been examined, apart from the fact that the learned court of J.M. 1st class, Barh is in-charge of several other courts which are vacant. In such view of the matter, it appears that there is no progress, at all, in the on-going trial, inasmuch as after framing of charge, not even a single witness has been examined. In such view of the matter, this Court is of the considered view that the accused person cannot be kept behind bars indefinitely especially in a case where though



the charges have been framed but still the trial is not progressing, not even at a snail pace. Having regard to the facts and circumstances of the case, though I deem it fit and proper to enlarge the petitioner on bail, however subject to certain conditions.

Accordingly, the abovenamed petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Judicial Magistrate 1st class, Barh, Patna in connection with Salimpur PS case no. 184 of 2019.

I further deem it fit and appropriate to direct the petitioner to mark his attendance before the learned court below on each and every date so fixed in the on-going trial and any default thereof, would entail cancellation of the privilege of bail being granted to the petitioner and the petitioner shall be taken into custody forthwith.

(Mohit Kumar Shah, J)

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