

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65772 of 2021

Arising Out of PS. Case No.-31 Year-2008 Thana- NIMCHAKBATHANI District- Gaya

MD. NASEER Son of Late Muslim Miyan Resident of Village - Manjholi,
Police Station - Nimchak Bathani, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No.2, Advocate
For the informant	:	Mr. Kunwar Narayan Jamuar, Advocate
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 19-01-2022 Heard Mr. Manish Kumar No. 2, learned counsel for the petitioner and, Mr. Kunwar Narayan Jamuar, learned counsel for the informant and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor appearing for the State through video conferencing.

Petitioner seeks regular bail in connection with Sessions Trial No. 02 of 2020/17 of 2020 arising out of Nimchak Bathani P.S. Case No. 31 of 2008 registered for the offence punishable under Section 307/34 of the Indian Penal Code. Subsequently Section 302 of the Indian Penal Code was added.

This is second attempt for grant of regular bail on behalf of the petitioner inasmuch as earlier the bail application



of the petitioner was rejected by this Court vide order dated 14.12.2020 passed in Cr. Misc. 26529 of 2020 with liberty to renew his prayer for grant of regular bail after nine months if the trial does not show any progress.

The allegation, as per the First Information Report is that on 7.7.2008 petitioner along with others armed with gun and pistol surrounded the father of the informant and fired upon him as a result of which, he fell down and died.

Learned counsel for the petitioner submits that the trial is not likely to be concluded in near future due to Covid-19 pandemic and out of ten charge sheet witnesses, only one witness has been examined as yet. Learned counsel further submits that in the similar situation, on the ground of delay in trial, the co-accused Nasrullah Khan has been granted bail by a co-ordinate Bench of this Court in Cr. Misc. 14763 of 2021. The petitioner is in custody since 24.9.2019.

On the other hand, learned counsel for the informant submits that the petitioner is main assailant who had fired upon the father of the informant along with co-accused Md. Nasrullah Khan who has been granted bail after remaining in custody for about 4-5 years and the petitioner is in custody for about more than two years.



This Court by order dated 01.12.2021 had called for a report from the trial court regarding stage of trial and in pursuance thereof, the report of learned ADJ 5th, Gaya, dated 04.01.2022 is on record and from perusal of the same, it appears that out of ten charge sheet witnesses, nine witnesses are yet to be examined.

Regards being had to the submission made by the parties and taking into consideration the material on record, the fact that the trial is not likely to be concluded in near future due to Covid-19 pandemic, other similarly situated co-accused person has been granted bail by a co-ordinate Bench of this Court and the petitioner is in custody since 24.9.2019, I am inclined to grant regular bail to the petitioner.

Accordingly, let the petitioner, above named, be released on regular bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-V, Gaya, in connection with Sessions Trial No. 02 of 2020/17 of 2020 arising out of Nimchak Bathani P.S. Case No. 31 of 2008 subject to the following conditions:-

(i) that one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is



related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) that the petitioner would be obliged to appear in the court on each and every date, failure to appear would constitute ground for the court to pass appropriate order, including cancellation of bail.

It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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