

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66369 of 2021

Arising Out of PS. Case No.-353 Year-2008 Thana- GANDHIMAIDAN District- Patna

Sanjay Singh @ Mantu Sharma Son of Vijay Sharma Resident of village -
Gamhari, P.S.- Uphara, District - Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar, Advocate

For the Opposite Party/s : Mr. Pranav Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 29-06-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks from today.

In the present case, the petitioner seeks bail in
connection with Gandhi Maidan P.S. Case No. 353 of 2008
initially registered for the alleged offences under Sections 25(1-
B)(a)(b)/26(ii)/35 of the Arms Act, Section 17 of the C.L.A. Act,
Sections 414 and 122 of the Indian Penal Code and
subsequently added with Section 120(B) of the Indian Penal
Code.

The prosecution is that the petitioner was
apprehended with cash and illegal arms while trying to sale
some rifles to extremists group. It is further alleged that the



petitioner used to deal in firearms and have been regularly supplying them to anti-social elements.

Learned Counsel for the Petitioner submits the petitioner was earlier granted bail vide order dated 23.06.2009 passed in Criminal Misc. No. 20630 of 2009. However the bail so granted had been cancelled vide order dated 24.09.2012 passed in Criminal Misc. No. 34893 of 2011 on the ground that the petitioner concealed his criminal antecedent and was again indulging in commission of offence of similar nature.

Learned counsel for the petitioner further submits that the petitioner remained in custody since 16.11.2008 to 23.06.2009 and thereafter on cancellation of bail from 31.10.2012 till date. The learned counsel further submits that even if the charges are taken to be true, the maximum punishment which could be inflicted upon petitioner would be not more than 10 years and the petitioner has already been in custody for more than 10 years and trial has not concluded so far.

The Learned Counsel for the Petitioner further pointed out that vide order dated 07.09.2016 passed in Criminal Misc. No. 6002 of 2015 a Coordinate Bench has allowed withdrawal of the petition enabling him to file such application



for bail once the petitioner is released on bail in the other pending criminal case(s).

The learned counsel thus submits that under such circumstances the petitioner may be released on bail and any condition may be imposed for this purpose.

The learned A.P.P. for the State has vehemently opposed the prayer for bail made on behalf of the petitioner. The learned A.P.P. submits that the petitioner is a habitual offender and known gun runner. The learned A.P.P. has drawn my attention towards the observation of the Hon'ble Supreme Court in **Gudikanti Narasimhuli @ Ors. Vs. Public Prosecutor, High Court of Andhra Pradesh** reported in **1978 (1) SCC 240** wherein Hon'ble Apex Court has observed that *"to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion on the basis of evidence, about the criminal record of a defendant, is therefore not an exercise in irrelevance."*



The learned A.P.P. further submits that the trial is at the the stage of completion and the petitioner must face the trial behind bars.

From perusal of record it transpires that vide last order dated 30.05.2022 the Senior Superintendent of Police, Patna was directed to file his affidavit as to why the petitioner be not released on bail forthwith. A counter affidavit has been file on behalf of the S.S.P., Patna today itself which is taken on record and copy has been given to the learned counsel for the petitioner.

Further a report has been called for from the court of learned Additional Session Judge-XXIII, Patna as to the present stage of trial in connection with Gandhi Maidan P.S. Case No. 353 of 2008, the reasons for such huge delay in framing of charge and the time likely to be taken in conclusion thereof.

The report is available on record and the submissions made by the Presiding Officer of the learned court below is accepted. Learned court below has sought time for 9 months for conclusion of trial. It has also been submitted that the charges was framed on 20.12.2021.

The learned trial court is directed to take all steps for conclusion of trial within the stipulated period sought by it.



Having regard to the submissions made hereinabove and considering the fact that the petitioner is in custody for more than 10 years and the trial is still continuing, the petitioner above named is directed to be released on bail forthwith on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge – XXIII, Patna in connection with Gandhi Maidan P.S. Case No. 353 of 2008, subject to the following conditions :

(i) One of the bailors shall be either the parents or the wife or the son or the daughter of the petitioner.

(ii) The petitioner will not try to influence the witnesses in any manner or will not try to hamper the proceedings before the Trial Court.

(iii) The Petitioner will remain present on each and every date and if the petitioner is found to be absent on two consecutive dates the prosecution will at liberty to move for cancellation of bail bond of the petitioner.

(iv) If the petitioner is found involved in similar nature of offences in future again the prosecution would be at liberty to move for cancellation of bail bond of the petitioner.



(Arun Kumar Jha, J)

ved/niku

U		T	
---	--	---	--

