

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70258 of 2021

Arising Out of PS. Case No.-116 Year-2017 Thana- SURSAND District- Sitamarhi

NURAIN ANSARI @ MD. NURAIN ANSARI S/o Md. Basir Ansari
Resident of Village- Barahi, P.S.- Parihar, Dist- Sitamarhi.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Mahendra Thakur, Adv.

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 23-02-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Learned counsel for the petitioner seeks permission to make necessary correction in the prayer portion with regard to case number.

He is permitted to do so.

Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned A.P.P. for the State.

This is the fourth attempt of the petitioner to obtain bail in connection with Trial No.03/2021 and Sessions Trial No.118/2018/90/18 arising out of Sursand P.S. Case No.116/2017 registered for the offences punishable under Sections 363, 366(A), 506 and 504/34 of the Indian Penal Code, however, after investigation the police has submitted charge-



sheet under Section 376 of the Indian Penal Code.

The allegation against the petitioner is that of committing of rape upon the minor daughter of the informant. The case was registered under Sections 363, 366(A), 506 and 504/34 of the Indian Penal Code. The petitioner is in custody in connection with this case since 11.05.2017.

When the petitioner moved this Court for grant of bail, in the second attempt a learned predecessor bench of this Court while refusing the prayer for bail of the petitioner granted him liberty to renew his prayer for bail if the trial is not concluded within a period of six months. This order was passed on 01.02.2019.

Thereafter, again when the petitioner moved this Court in Cr.Misc.No.6301 of 2021, a report was called for from the learned court below and in the said report the learned court below gave this Court to understand that the trial may be concluded within a period of three months. This Court was also informed that in course of trial fresh charges have been framed against the petitioner. Two doctors and six chargesheet witnesses are to be examined. This Court while refusing bail to the petitioner once again granted him liberty to renew his prayer for bail if the trial is not concluded within three months from the



date of start of normal functioning of the court. This Court gave further direction to the learned trial court to fix the case on day to day basis and prosecution was expected to produce the witnesses within the said period of three months.

At this stage, when fresh report has been called for in this case, the learned court below has informed that after framing of fresh charges none of the witnesses have appeared in this case and even the I.O. is evading his evidence in the court despite issuance of summons. The Court has issued bailable warrant against him.

Learned counsel submits that in such circumstance where the petitioner has remained in jail for almost five years and the trial has not been concluded for no reason attributable to the petitioner, he deserves privilege of bail.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, but submits that it is unfortunate that the prosecution has not cooperated in conclusion of the trial and even the I.O. is evading his evidence.

Having regard to the aforementioned facts and circumstances, on finding that the prosecution in this case seems to have failed in completion of the trial despite several indulgences given by this Court and the petitioner has remained



in jail for about five years and the trial is still not likely to be concluded in near future, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sitamarhi in connection with Sursand P.S. Case No.116/2017, subject to the condition as laid down under Section 437 (3) 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.

(Rajeev Ranjan Prasad, J)

arvind/-

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'.

