

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70393 of 2021

Arising Out of PS. Case No.-246 Year-2017 Thana- GOGRI District- Khagaria

Sekh Mantoo, Son of Nezam @ Seikh Nizamuddin Resident of Ward No.- 2,
Itahari, P.S.- Gogari, District - Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Viveka Nand Singh, Advocate

For the Opposite Party/s : Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 10-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner, who is in custody since 23.10.2019, has renewed his prayer for bail in connection with Sessions Trial No. 30 of 2020 arising out of Gogri P.S. Case No. 246 of 2017, registered under Sections 307, 328/34 and 304 (B) of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act, having earlier been rejected by order dated 08.01.2021 in Cr. Misc. No. 31478 of 2020.

As per the prosecution case, the petitioner and other co-accused persons after sprinkling kerosene oil on the



informant, who was the wife of the petitioner, set her on fire on account of their demand and regular quarrel. The allegation against this petitioner is that he ignited the fire. The FIR was registered on the fardbeyan of the deceased, wife of the petitioner as she succumbed to her injury later on.

The learned counsel for the petitioner submits that while rejecting the earlier bail petition, this Court granted liberty to the petitioner to renew his prayer for bail, if the trial was not concluded within nine months. The learned counsel further submits that the petitioner is in custody since 23.10.2019 and the trial has not been concluded till date and the same is not expected to conclude in near further. The learned counsel further submits that the marriage was solemnized 15-20 years prior to the occurrence. So allegation of demand is absurd. The co-accused Nizam @ Shekh Nizamuddin has been granted bail by a Coordinate Bench of this Court vide order dated 19.07.2018 passed in Cr. Misc. No. 42834 of 2018.

Learned APP opposes the prayer for bail submitting that in the trial, all the witnesses have been examined except Aurangzeb Alam, who resides at Qatar and when approached, he said that he could not come to attend the trial court within a year since he is not allowed to leave for two years as per



condition of his job.

Perused the records.

Vide the last order dated 18.07.2022, the Superintendent of Police, Khagaria was directed to remain personally present before this Court with explanation for non-production of witnesses before the learned trial court and also for non-submission of the report as called for by this Court vide order dated 24.05.2022.

Pursuant to the aforesaid order dated 18.07.2022, the Superintendent of Police, Khagaria is present before this Court and he submits that all the witnesses have been produced except the witness as above noted and he further submits that all steps are being taken for production of last witness.

No report has been filed by the State, but learned APP submits that he would file the affidavit in course of the day.

Under the aforementioned facts and circumstances, the personal appearance of the Superintendent of Police, Khagaria is dispensed with for the present. However, he is directed to ensure that the last witness is examined as early as possible.

Having regard to the facts and circumstances of the case and considering the period of custody of the petitioner and



further considering the fact that the trial is not likely to conclude in a year, the petitioner is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-V, Khagaria, in connection with Sessions Trial No. 30 of 2020 arising out of Gogri P.S. Case No. 246 of 2017, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be the close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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