

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.265 of 2022

Arising Out of PS. Case No.-24 Year-2019 Thana- BAIKUNTHPUR District- Gopalganj

VIKASH KUMAR @ BIKASH KUMAR, Son of Late Police Prasad,
Resident of Village - Vamo (Ward No.2), P.S.- Baikunthpur, Distt.- Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Natraj Verma, Advocate Mr. Naresh Chandra Verma, Advocate
For the Opposite Party/s	:	Mr. Md. Fahimuddin, A.P.P.
For the Informant	:	Ms. Pankhudi Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 09-03-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard Mr. Natraj Verma, learned counsel for the petitioner, Ms. Pankhudi Anand, learned counsel for the informant and Mr. Md. Fahimuddin, learned A.P.P. for the State.

This is the second attempt of the petitioner to obtain regular bail in connection with Session Trial No. 157 of 2021 arising out of Baikunthpur P.S. Case No. 24 of 2019 registered for the offences punishable under Section 363 of the Indian Penal Code. He is in custody since 13.03.2019. The petitioner has got no criminal antecedent.

Earlier his prayer for bail was rejected by this Court



vide order dated 06.01.2021 passed in Cr. Misc. No. 30505 of 2020. This Court took into consideration that the name of the petitioner has transpired in the confessional statement of the co-accused Sonu Kumar and it is the said Sonu Kumar whose statement led to recovery of the materials used in killing of the deceased from the house of co-accused Manish Kumar. The dead body was also recovered at his instance.

This Court observed that in this case the co-accused Sonu Kumar has not only made statement disclosing the name of the co-accused including this petitioner but on his disclosure some seizures have been made and recoveries have been made from the house of the co-accused, this petitioner had allegedly participated in the occurrence.

This Court further noticed that the petitioner was in custody since one year and nine months, therefore, while rejecting the prayer for bail of the petitioner, this Court directed the learned trial court to conclude the trial as early as possible and preferably within a period of nine months from the date of the order.

Learned counsel for the petitioner has informed this Court that despite the order dated 06.01.2021 no witness was examined in course of trial for over one year and the petitioner has remained in custody for almost three years. In the meantime, the co-accused Manish Kumar from whose house some incriminating



materials were recovered has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 40772 of 2020 vide order dated 25.02.2021. Another co-accused Birendra Prasad Yadav whose name had also transpired in the confessional statement of Sonu Kumar has been granted bail in Cr. Misc. No. 44191 of 2019 vide order dated 26.09.2019.

Learned counsel, therefore, submits that considering all these aspects of the matter particularly that his name has transpired in confessional statement, no incriminating material has been recovered from possession of this petitioner and he has spent almost three years in jail in connection with this case having no criminal antecedent, he deserves privilege of bail, subject to such condition which this Court may impose.

Ms. Pankhudi Anand, learned counsel for the informant has opposed the prayer for bail of the petitioner. Learned counsel submits that the co-accused Sonu Kumar who is the main accused has made confessional statement and has disclosed the name of the co-accused including this petitioner. Learned counsel submits that she has got instruction to say that one witness has been examined today. Learned counsel submits that the prayer for bail of the petitioner is required to be rejected.

This Court, however, called upon learned counsel for the informant to take a stand as to whether or not the case of the



petitioner stands on a better footing from that of co-accused Manish Kumar who has been granted bail. Learned counsel for the informant, to that extent fairly accepts that so far as the case of this petitioner is concerned, from his possession no incriminating article has been recovered.

Mr. Md. Fahimuddin, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner but considering the entire facts and circumstances, the fact that the name of the petitioner has transpired in the confessional statement of the co-accused and this Court has noticed from its previous order that no incriminating article has been recovered from the possession of the petitioner and for all these reasons, this Court while rejecting 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 nine months, in fact, for more than one year from the date of last order of this Court no witness at all was examined and then the petitioner has remained in custody for almost three years, in the meantime, the co-accused Manish Kumar has been granted bail, this Court is inclined to direct 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 1st Additional Sessions Judge, Gopalganj in connection with



Session Trial No. 157 of 2021 arising out of Baikunthpur P.S. Case No. 24 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that in course of trial he shall present on each and every date fixed in the trial court. Two consecutive defaults in putting appearance in the trial court shall invite action towards cancellation of his bail by the learned trial court itself.

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 steps 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.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

