

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.659 of 2022

Arising Out of PS. Case No.-308 Year-2019 Thana- KUDRA District- Kaimur (Bhabua)

Pintu Keshari @ Rakesh Sah S/O Pyare Sah @ Pyare Lal Sah Resident Of
Village- Amaon, P.S. Chainpur, District- Kaimur (Bhabua)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 17-08-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by the Stamp Reporter within two weeks from today.

Heard learned counsel for the petitioner and Mr. Fahimuddin, learned APP for the State.

This is the third attempt of the petitioner to obtain bail in connection with S.Tr. No. 59 of 2020 arising out of Kudra P.S. Case No. 308 of 2019 registered for the offences punishable under Sections 279, 304(A) of the Indian Penal Code and later on Sections 302, 201, 392, 411, 328, 34 of the Indian Penal Code were added. He has got five criminal antecedents and in all the cases he is on bail as stated in paragraph '3' of the application.

Last time prayer for bail of the petitioner was rejected vide order dated 01.09.2021 in Cr. Misc. No. 34562 of 2021



with an observation that in case the trial is not concluded within the given period by the learned trial court in his report, the petitioner may renew his prayer for bail. At that time, the learned trial court had expected to conclude the trial within three months.

Learned counsel for the petitioner submits that till date the trial has not been concluded as no prosecution witness appeared in course of trial till the date of filing of the present application.

This Court had called for a report from the learned trial court and the same has been received vide Letter No. 10 dated 21.02.2022. According to this report, out of 7 chargesheet witnesses no witness had turned up despite issuance of non-bailable warrant of arrests against them. The trial court has still requested to grant four months' time to conclude the trial.

Learned counsel submits that from the date of Letter No. 10 about six months' time have elapsed but till date the trial has not been concluded, therefore, the petitioner cannot be kept in confinement by way of punishment.

Learned APP for the State has no answer to the submissions made on behalf of the petitioner particularly that despite several indulgences granted to the State, the State has



failed to produce the prosecution witnesses.

Having heard learned counsel for the petitioner and learned APP for the State, in the given facts and circumstances of the case where despite several indulgences the State has failed to produce the prosecution witnesses and the petitioner has remained in custody for about 2 years 9 months in connection with this case, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI, Kaimur at Bhabua in connection with S.Tr. No. 59 of 2020 arising out of Kudra P.S. Case No. 308 of 2019, 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 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 allowed.



The Superintendent of Police, Kaimur, Bhabua shall fix the responsibility upon the erring officials for non-execution of the warrants and non-production of the witnesses in this case.

Certified copy of this order will be made available only after removal of all the defects.

Let this order be communicated to the Superintendent of Police, Kaimur, Bhabua.

(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'.

