

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67686 of 2022

Arising Out of PS. Case No.-207 Year-2021 Thana- UCHKAGAON District- Gopalganj

Ashad Nomani @ Tiger, Son of Shibali Nomani, R/o Village- Jagmalwa, P.S.-
Thawe, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manan Kumar Mishra, Sr. Advocate
		Mr. Vishwajeet Kumar Mishra, Advocate
For the Opposite Party/s	:	Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-12-2022 Heard Mr. Manan Kumar Mishra, learned senior counsel, duly assisted by Mr. Vishwajeet Kumar Mishra, learned counsel for the petitioner and Mr. Satyendra Narayan Singh, learned APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with S.T. No. 351 of 2021, arising out of Gopalganj (Uchkagaon) P.S. Case No. 207 of 2021, registered for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. At the outset, Mr. Mishra, learned senior counsel appearing on behalf of the petitioner submits that earlier the petitioner had moved before this Court for grant of bail in Cr. Misc. No. 54009 of 2021 and the same was rejected vide order



dated 01.09.2022 with a direction to the learned court below to conclude the trial within a period of two months from the date of receipt of the order.

4. It is submitted that despite the aforesaid order dated 01.09.2022, till date the trial has not been concluded and, in fact, instead of complying the direction, the court below vide order dated 09.11.2022 allowed the petitions filed by the prosecution to examine as many as seven witnesses, including three witnesses, namely, Shabaaj Alam, Md. Taifik and Vikram Singh, who are the witnesses to the inquest report and also other two witnesses, who are the witnesses of the seizure list, apart from Supervisor to the post-mortem report, namely, Dr. Ranjit Kumar. The learned trial court also allowed the prayer for re-examination of the investigating officer of the present case, which in his submission is nothing, but to prolong the incarceration faced by the petitioner and also to delay the trial due to ill motive of the prosecution.

5. It is further submitted that admittedly the petitioner is not named in the F.I.R. and his name transpired after a delay of five days when the statement of witnesses Anisul Haque and Muztaba Ashraf were recorded by the police, who are claiming themselves to be the eye witnesses of the occurrence, but



surprisingly from the materials available on record and the deposition made by the aforesaid witnesses, it is evident that they were all along present in the Sadar Hospital, Gopalganj, where the deceased was taken for treatment and the informant was also present there, but none of them or even the informant has raised suspicion or taken the name of the petitioner, as he is the one, who shot the deceased or even raises suspicion of the involvement of the petitioner in the present case. He further submits that the petitioner, who is a law abiding citizen, is ready to give undertaking that he will remain physically present on each and every date till conclusion of the trial, as he is in custody since 05.07.2021.

6. The order dated 09.11.2022 has been brought on record by way of Annexure-5 to the present application and from perusal thereof, it appears that two applications have been filed on behalf of the prosecution for summoning the witnesses to the inquest report and seizure list for recording their deposition in the ends of justice. It also appears that one another application has also been filed by the prosecution for summoning the police officer (PSI) Vikram Singh, who prepared the inquest report and Dr. Ranjit Kumar, who is said to be the observer in the post-mortem report, apart from a prayer to



re-examine the investigating officer. The learned trial court allowed the aforesaid applications in view of the provision prescribed under Section 137 of the Indian Evidence Act for the just decision of the case and the investigating officer has been called for his re-examination.

7. A query has been made from learned Additional Public Prosecutor for the State, who does not confront the factual position of the trial.

8. Having heard the learned counsel for the petitioner as well as the State and the materials available on record, specially the order of the learned trial court, it is evident that there is no likelihood of conclusion of the trial in near future, apart from the undertaking given by the petitioner that he will remain physically present in the Court on each and every date of the trial, keeping the petitioner behind the bar would serve no further purpose, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees fifty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IX, Gopalganj in connection with S.T. No. 351 of 2021, arising out of Gopalganj (Uchkagaon) P.S. Case No. 207 of 2021, subject to the condition that one of the bailors will be the close relatives of



the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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