

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69845 of 2022

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

Mohammad Hussain, S/o Mohammad Khurshed @ Khurshed Alam @
Mohammad Khurshid @ Khurshid Alam, R/o Village- Inderwan Abdullah,
P.S.- Gopalganj, Distt- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashish Giri, Advocate
Ms. Riya Giri, Advocate
For the Opposite Party/s : Mrs. Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-12-2022 Heard Mr. Ashish Giri, learned counsel for the
petitioner and Mrs. Nirmala Kumari, 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. Ashish Giri, learned 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. 60502 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 even as per the F.I.R. the petitioner along with two others came to the house of the petitioner at about 6.00 PM and the deceased went along with them. At about 8.15 PM, the informant got an information that his son sustained gun shot injury and during the course of treatment he succumbed to the injury. None of the witnesses disclosed the hand of the petitioner in causing death of the son



of the informant, rather during the course of investigation two of the witnesses disclosed that co-accused Ashad Nomani @ Tiger is the assailant, who fired upon the deceased causing his death. He vehemently submits that save and except the suspicion that too without any cogent material, there is nothing against the petitioner.

6. He next 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 01.07.2021, having fair antecedent.

7. The order dated 09.11.2022 has been brought on record by way of Annexure-4 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.

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

9. 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 Chief Judicial Magistrate, Gopalganj in connection with 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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