

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68085 of 2022

Arising Out of PS. Case No.-146 Year-2019 Thana- VAISHALI District- Vaishali

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MD. KASIM Son of Md. Hafiz R/v- Belka, P.S.- Vaishali, Dist- Vaishali
... .. Petitioner/s

Versus

The State of Bihar
... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 3708 of 2023

Arising Out of PS. Case No.-146 Year-2019 Thana- VAISHALI District- Vaishali

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SONU KUMAR S/O Banarash Ray R/O Village- Keshopur, P.S and District-
Vaishali
... .. Petitioner/s

Versus

THE STATE OF BIHAR
... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 68085 of 2022)

For the Petitioner/s : Ms. Kanchan Kumari, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 3708 of 2023)

For the Petitioner/s : Ms. Bela Singh, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-10-2023 Heard learned counsel for the petitioners in both the cases and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

2. As prayed, learned counsel for the petitioner in Cr. Misc. No. 68085 of 2022 is permitted to make necessary correction in the prayer portion of the application with regard to the name of court below where the case is said to be pending and the case number.

3. Petitioners in these two applications have renewed their prayer for regular bail in connection with Vaishali P.S. Case No. 146 of 2019 registered for the offences punishable



under Section 395 of the Indian Penal Code. The petitioners have antecedent of five and ten cases respectively on their head. They are in custody since 12.11.2020 and 09.11.2020 respectively.

4. Earlier the prayer for regular bail of the petitioners was rejected by this Court vide order dated 18.02.2022 passed in Cr. Misc. No. 39297 of 2021 and Cr. Misc. No. 37970 of 2021 respectively.

5. Learned counsel for the petitioners submits that earlier this Court while rejecting the prayer for bail of the petitioners observed that the Court was not inclined to release the petitioners on bail at this stage, however, the learned trial court was directed to proceed with the trial as early as possible and all endeavours be made to conclude the same preferably within a period of nine months from the date of communication of the order.

6. It is submitted that more than one year after the order passed by this Court, charge has been framed on 11.04.2023 only but during the last six months after framing of charge, not a single witness has been examined on behalf of the prosecution. It is submitted that in the meantime, the petitioners have remained in incarceration for approximately three years.



7. It is further submitted that the co-accused in this case have been granted bail, however, this Court had not given the same benefit to the petitioners on the earlier stage even after noticing the said submission because these petitioners had got criminal antecedents. Learned counsel submits in both the cases the petitioners have got regular bail in all the cases which are against them, moreover the criminal antecedent alone may at this stage be not considered as a ground to further keep the petitioners in incarceration.

8. Learned counsel submits that the petitioners are ready to abide by such terms and conditions which would be imposed for purpose of grant of bail.

9. Learned A.P.P. for the State has though opposed the prayer for bail of the petitioners but considering the entire facts and circumstances of the case, particularly that the petitioners have already remained in incarceration for approximately three years, the co-accused have been granted bail and that till date not a single prosecution witness has been examined which gives an impression that the trial is not likely to be concluded in near future, there is otherwise no submission that the presence of the petitioners cannot be secured in course of trial, this Court directs that the petitioners above named be release on bail on furnishing



of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VII, Vaishali at Hajipur in connection with Vaishali P.S. Case No. 146 of 2019 subject to the condition as laid down under Section 437 (3) Cr.P.C.

10. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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.

11. And further condition that both the petitioners shall put their appearance in course of trial on each and every date fixed in the matter, two consecutive defaults in putting appearance shall invite action towards cancellation of the same.

12. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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