

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5488 of 2022

Arising Out of PS. Case No.-224 Year-2018 Thana- PATEPUR District- Vaishali

DEEPAK KUMAR @ DOCTOR S/o Viliun Kumar Raut R/o village-
Hashanpur Bhatwan, P.S.- Hashanpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Chandra Gandhi, Advocate
For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 02-01-2023 Heard the learned counsel for the petitioner and
the learned APP for the State.

The present petition is by way of second attempt at the behest of the petitioner for grant of bail in connection with Patepur PS case no. 224 of 2018 under Sections 364/120B, 302, 201, 379, 411 of the Indian Penal Code, Sections 13, 16, 19, 20 of the U.A.P. Act and Section 27 of Arms Act, inasmuch as the earlier prayer of the petitioner for grant of bail was rejected by a co-ordinate Bench of this Court vide order dated 08.01.2021, passed in Cr. Misc. no. 28218 of 2020.

The case of the prosecution in brief is that on 27.12.2018 at about 9.30 pm, the husband of the informant and his co-villager Ramesh Jha had gone to the canal for irrigating their field and subsequently, the wife of the said Ramesh Jha



had made a call to her husband from her mobile phone and asked him to return, however, the said Ramesh Jha had replied that near the canal bridge, accused persons had surrounded him and the husband of the informant. The informant is then stated to have gone to the place of occurrence along with other co-villagers and had found the accused persons standing near the bridge, variously armed, whereafter, they had kidnapped the husband of the informant and the said Ramesh Jha and had then fled away.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case and is languishing in custody since 13.03.2019. The learned counsel for the petitioner has further submitted that the petitioner has not been named in the FIR, however, those co-accused persons who have been named in the FIR have already been granted bail by co-ordinate Benches of this Court vide order dated 13.12.2021 passed in Cr. Misc. no. 22448 of 2019, order dated 20.09.2021 passed in Cr. Misc. no. 31060 of 2021, order dated 16.07.2021 passed in Cr. Misc. no. 12141 of 2021, order dated 08.07.2021 passed in Cr. Misc. no. 15975 of 2021, order dated 01.07.2021 passed in Cr. Misc. no. 20947 of 2021, order dated 11.11.2020 passed in Cr. Misc. no. 13972 of 2021,



order dated 13.10.2020 passed in Cr. Misc. no. 28660 of 2020, order dated 04.06.2020 passed in Cr. Misc. no. 26269 of 2020 and vide some other orders passed in various bail petitions filed by the co-accused persons. It is further submitted that the petitioner has been roped in the present case on the allegation that upon being apprehended, he had made his confessional statement, in which, he had disclosed the whereabouts of the dead body, resulting in recovery of the dead body from the place specified by the petitioner herein, however, it is submitted that there is no allegation of the petitioner having killed the deceased, save and except what has been alleged by the prosecution. It is also submitted that the trial has also not commenced till date and the petitioner is languishing in custody since more than 03 years.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties, gone through the records, perused the case diary and the report furnished by the I/C A.C.J.M.-XV, Vaishali at Hajipur dated 06.06.2020, wherein it has been admitted that the case record is running for production of custody accused persons, meaning thereby that the trial has virtually not commenced till date. A



bare perusal of the materials available on record as also in the case diary would show that save and except suspicion, there is no concrete material to *prima facie* show the involvement of the petitioner in the alleged crime. This Court also finds that all the other co-accused persons have already been granted bail by co-ordinate Benches of this Court, apart from the fact that while rejecting the bail of the petitioner on the earlier occasion, a co-ordinate Bench of this Court, vide order dated 08.01.2021, had observed that in case, the trial is not concluded within 09 months, the petitioner may renew his prayer for bail. Under such circumstances, this Court finds that the petitioner has made out a case for being admitted to the privilege of bail.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned court of A.C.J.M.-X, Vaishali at Hajipur, where the case is pending, pertaining to Patepur P.S. Case No. 224/2018, however subject to the following conditions:-

“(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the trial



and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and his absence on two consecutive dates without sufficient reason, shall entail cancellation of his bail bonds by the learned court below.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.”

(Mohit Kumar Shah, J)

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