

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10608 of 2023

Arising Out of PS. Case No.-166 Year-1991 Thana- BUXAR MUFFSIL District- Buxar

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1. Harendra Chamar @ Harendra Ram Son Of Late Mohan Ram R/O Village- Sonbarsha, P.S.- Buxar (Industrial), District- Buxar
 2. Brij Bihari Chamar @ Brij Bihar Ram Son Of Late Ramadhar Chamar R/O Village- Sonbarsha, P.S.- Buxar (Industrial), District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Setu Prateek, Adv.

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 25-04-2023 1. Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.
2. Heard learned counsel for the petitioners and the learned APP for the State.
3. Petitioners seek regular bail in connection with Buxar (Muffasil) P.S. Case No. 166 of 1991 dated 03.11.1991 registered for the offences punishable under Sections 147, 148, 149, 324, 325, 307 and 323 of the Indian Penal Code and Section 27 of Arms Act and later Section 302 of I.P.C. was added.
4. The main submissions advanced by petitioners' counsel are that though the instant matter relates to the year



1991 but the petitioners' case was committed on 20.01.2015 and the reason for delay in committing the case was due to case diary being not available on record, owing to which charge could not be framed upon the petitioners and the petitioners had no role in the delaying of submission of case diary and they were earlier granted bail by this Court vide order dated 26.02.1992 passed in Cr. Misc. No. 285/1992 but their bail bond was cancelled on 17.10.2022 due to their non-appearance before the trial Court and thereafter they surrendered before the trial Court on 29.11.2022 and accordingly the petitioners are alleged to have misused the privilege of bail for about one month and twelve days only, for which the petitioners have been punished sufficiently and the petitioners have fair and clean antecedent.

5. Learned APP appearing for the State has opposed the bail prayer of both the petitioners and submitted that on account of non-appearance of the petitioners before the trial Court, the trial of the petitioners had lingered and therefore the charges could not be framed upon them after the commitment of the petitioners' case.

6. Considering the facts and circumstances of this case as well as the reason for not framing the charge upon the petitioners as appears from the order impugned and the fact that



the petitioners were earlier granted bail by this Court, though they did not appear in person before the trial Court after commitment till the cancellation of their bail bond but the order impugned goes to show that the case diary of the petitioners' case was also not available on record and now as per the order impugned the charges have been framed upon them, so in the light of these facts both the petitioners are entitled to the privilege of bail. Accordingly, let the petitioners named-above be enlarged on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Buxar (Muffasil) P.S. Case No. 166 of 1991, on the following conditions:-

(i) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

(ii) If the petitioners tamper with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.



(iii) One of the bailors shall be a close relative of the petitioners who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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