

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22615 of 2023

Arising Out of PS. Case No.-218 Year-2021 Thana- GANDHIMAIDAN District- Patna

Prince Kumar Son Of Baidhnath Prasad @ Baijnath Prasad @ Vaidhnath Prasad, R/O Postal Park, Chakki Mill Buddha Nagar, Gali No.01, P.S.- Kankarbagh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Anand, Advocate

For the Opposite Party/s : Mr. Jai Prakash Verma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

10 08-12-2023 Heard Mr. Saket Anand, learned counsel appearing on behalf of the petitioner and Mr. Jai Prakash Verma learned counsel of the informant as well as the Additional Public Prosecutor for the State.

2. The petitioner renewing his prayer for regular bail, who is in custody in connection with Gandhi Maidan P.S. Case No. 218 of 2021 dated 28.03.2021 giving rise to Sessions Trial No. 644 of 2021 registered for the offences punishable under Sections 364, 302, 201 r/w 34 of the Indian Penal Code.

3. Earlier the prayer for bail of the petitioner was turned down by this Court on 29.08.2022 after taking into consideration the materials collected during the course of investigation, specially the recovery of pulsar motorcycle and



mobile phone from the possession of the petitioner and co-accused Avinash Kumar, just after the murder of the son of the informant and other circumstantial evidence, including the post-mortem report which suggests that the death has taken place within the period when the deceased was taken away by the three accused persons and the petitioner met with an accident. While rejecting the prayer of the petitioner, this Court had observed and expectation was made that the learned Trial Court will take all necessary measures to ensure conclusion of trial as early as possible.

4. A status report with regard to the present position of the trial is called for and it has been informed to this Court that the last witness was examined on 03.04.2023 and since then none of the witness has been examined.

5. Learned counsel appearing on behalf of the petitioner submits that though earlier the prayer for bail of the petitioner was rejected on merit, however, at the cost of repetition he submits that there is no eye witness to the alleged occurrence and the entire case is based upon circumstantial evidence, moreover, one of the co-accused who had apprehended with the petitioner alongwith the motorcycle of the deceased, he has been allowed on bail considering his age and



declaration by the Court as juvenile. He next submits that during the pendency of this application the petitioner has also been allowed provisional bail for a period of two months, considering his deteriorating condition of fractured leg vide order dated 26.07.2023 and in terms of the order of this Court after getting proper treatment he positively surrendered before the Court below and to this effect surrender certificate has also been brought on record. He next submitted that the petitioner has been incarcerated since 22.04.2021 and even after lapse of more than 2 ½ years, the trial could not be concluded, moreover the petitioner as well as his parents have given undertaking that the petitioner will remain present before the learned Trial Court on each and every date. He lastly submits that the petitioner bears fair antecedent and he would certainly abide by the verdict rendered by the learned Trial Court.

6. On the other hand, learned counsel for the State and the informant vehemently oppose the bail application and submit that though the case is based upon the circumstantial evidence, but recovery of the motorcycle of the deceased and other incriminating materials complete the chain and only pointing towards the guilt of the petitioner and at this fag end of the trail, the release of the petitioner would certainly hamper the



trial. They next submits that only the investigating officer of the case is required to be examined and there is every likelihood that the trial shall be concluded preferably within a period of 2 to 3 months.

7. Regard being had to the submissions made on behalf of the parties and considering the period of custody and the fact that since 03.04.2023 till date the witness specially the investigating officer has not been examined and this Court has also considering his ailment has allowed the provisional bail whereupon the petitioner surrendered before the Court below, coupled with the fair antecedent and the undertaking given by the petitioner as well as his parents that he will remain present on each and every date, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVI, Patna Sadar in connection with Gandhi Maidan P.S. Case No. 218 of 2021 dated 28.03.2021 giving rise to Sessions Trial No. 644 of 2021, subject to the condition that any single absence of the petitioner without prior information to the learned Trial Court would entail the cancellation of his bail with further conditions which are as follows:-



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

(ii) He will remain 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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