

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21348 of 2022

Arising Out of PS. Case No.-94 Year-2015 Thana- NATHNAGAR District- Bhagalpur

Shambhu Yadav Son of Late Sri Lal Yadav Resident of village - Maheshpur
(Babarganj), P.S.- Mojahidpur (Babarganj), District.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Advocate

For the Opposite Party/s : Mr. Indu Kumar Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 21-02-2023 Let the defect(s), 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.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with S.T. No. 604 of 2016, arising out of Nathnagar (Madhusudanpur) P. S. Case No. 94 of 2015 registered for the offences punishable under Sections 341, 307, 120-B, 34 of the Indian Penal Code and section 27 of Arms Act and latter added section 302 of the Indian Penal Code.

As per the prosecution, the informant was shot dead by this petitioner with other co-accused namely Umesh Yadav.



The main submissions advanced by the learned counsel Mr. Swapnil Kumar Singh for the petitioner are that the instant criminal miscellaneous petition filed for the relief of regular bail is a second attempt of the petitioner and earlier he had filed Cri. Misc. No. 23378 of 2020 which was rejected and till the date of passing of the order in the said criminal miscellaneous case, out of total five prosecution witnesses, four witnesses had been examined and the same position still persists today and after that order the last prosecution witness has not been produced by the prosecution for the last more than two years which shows the prosecution's lingering attitude in concluding the petitioner's trial. Further submission is that the petitioner has been languishing in jail since 31.08.2015 and out of four examined witnesses one P.W. 3 went hostile and two prosecution witnesses P.W. 1 and P.W. 2 supported only the fact that they had seen the deceased at the hospital at the time of treatment where the statement of the deceased was recorded, but they did not make the claim that they had seen the actual occurrence. Further submission is that co-accused Kundan Yadav has been granted bail by a co-ordinate bench of this court vide order passed in Cr. Misc. No. 42951 of 2015.

Learned APP Mr. Indu Kumar Srivastava appearing



for the State has opposed the bail prayer.

In view of the facts, as stated above and mainly the custody period of the petitioner and also the fact that as per the order of learned court below one prosecution witness, who is a medical officer concerned, is to be examined but he has not been produced for the last more than two years by the prosecution which shows the prosecution's lingering attitude to conclude the petitioner's trial, this court is inclined to accept his bail prayer. Accordingly, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with S.T. No. 604 of 2016, arising out of Nathnagar (Madhusudanpur) P. S. Case No. 94 of 2015.

(Shailendra Singh, J)

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