

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35509 of 2023

Arising Out of PS. Case No.-230 Year-2021 Thana- KADWA District- Katihar

MD. IKTASHAB ALAM @ SHAHANSHAH Son of Ayub Alam Resident of
Village - Bobra, P.S.- Kadwa, District – Katihar.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinay Ranjan

For the Opposite Party/s : Mr.Nand Kishore Pd.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 12-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with St. Trial
No.16/2022 arising out of Kadwa P.S. Case No. 230/2021
registered for the offences punishable under Section 307 of the
Indian Penal Code read with Sections 25(1-b) (a), 26 and 27 of
the Arms Act.

As per prosecution case, son of the informant namely
Saddam Hussain was sat at his shop and all of a sudden
petitioner came on motorcycle and fired shot upon the
informant's son as a result of which he fell down unconsciously.

Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this
case. The petitioner is languishing in custody since 13.09.2021



and bears no criminal antecedent. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. He further submits that on 21.07.2022 the bail of the present petitioner has already been rejected by this Court vide Cr. Misc. No. 4823/2022 with an observation that if the trial is not concluded within nine months from the date of receipt/production of copy of this order, the petitioner may renew his prayer for bail. He further submits that since the date of rejection of the bail petition of the petitioner, nine months have already been lapsed but only five witnesses have been examined out of ten charge-sheeted witnesses and the trial is running on prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner but conceded to the submission of the learned counsel for the petitioner that this court while rejecting the prayer for bail of the petitioner observed that if the trial is not concluded preferably within nine months, the petitioner may renew his prayer for bail.

A report regarding stage of trial has been called from vide order dated 21.07.2022, the trial court vide letter no.445/2023 has sent its report which reveals that five witnesses have been examined out of ten witnesses. The aforesaid report



further reveals that the delay of trial is not attributable to the present petitioner as he is in custody since 13.09.2021.

Considering the facts and circumstances of the case, period of custody, trial is not concluded within nine months and delay of trial is not attributable to the petitioner and keeping in view clean antecedent of petitioner, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-V, Katihar in connection with St. Trial No.16/2022 arising out of Kadwa P.S. Case No. 230/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the



witnesses, in that case, the prosecution will be at liberty to move
for cancellation of bail.

(iv) Petitioner shall not leave the territorial
jurisdiction of the concerned trial court without appropriate
permission of the court concerned.

(Alok Kumar Pandey, J)

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