

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28768 of 2023

Arising Out of PS. Case No.-276 Year-2021 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Md. Sikandar @ Sikandar @ Md. Shahansha (Shahansha) son of Md.
Shafi Village- Baro Quadirchak, PS- Phulwaria Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance:

For the Petitioner	:	Mr. Md. Fahimuddin, Advocate
For the Informant	:	Mr. Sandip Kumar Gautam, Advocate
For the State	:	Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 3 21-06-2023 1. Heard the parties.
2. Petitioner seeks regular bail in connection with S.T. No. 407 of 2022 arising out of Muffasil P.S. Case No. 276 of 2021 dated 12.05.2021 registered for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code.
3. This is a second attempt by petitioner Md. Sikandar @ Sikandar @ Md. Shahansha for the relief of regular bail after his earlier prayer for the same relief was rejected by this Court vide order dated 05.09.2022 passed in Cr. Misc. No. 30742 of 2022 and petitioner has again come before this Court for the same relief mainly in the light of liberty given to him by this Court in his earlier rejection order.

4. It is submitted by learned counsel for the petitioner that in the rejection order dated 05.09.2022 passed in Cr. Misc. No. 30742 of 2022 preferred by this petitioner, this Court directed the trial Court to expedite the trial of this petitioner and conclude the same in the next six months from the date of that order, but thereafter only one prosecution witness has been examined till date, though during trial one co-accused namely, Md. Humayun @ Md. Himayu has become absconder and against him processes under Sections 82 and 83 of Cr.P.C. have been issued but the petitioner is not liable for this situation and on account of misuse of the privilege of bail by the said co-accused, petitioner should not be penalised by keeping him in jail continuously.

5. Learned counsel for the informant vehemently opposes the bail prayer and submits that prosecution has always remained willing to produce the prosecution witnesses in the trial of petitioner and co-accused but on account of the misuse of the privilege of bail by the co-accused Md. Humayun @ Md. Himayu, the prosecution is now unable to produce the witnesses and in view of the conduct of the said co-accused, there is a strong possibility of misuse of privilege of bail by this petitioner also if the same is granted to him. It is further

submitted that the informant undertakes to produce all the private prosecution witnesses in the next three months, if the trial of this petitioner is separated from the absconding co-accused.

6. Learned APP for the State also opposes the bail prayer of the petitioner.

7. Heard both the sides and perused the materials available before this Court. The instant matter relates to murder and the petitioner is named in the FIR and informant's son suffered stab injuries and as per above submission, one co-accused who was granted bail by a co-ordinate bench of this Court has become absconder, on account of which, the petitioner's trial's stage has changed, however, the informant's counsel is ready to produce all the private prosecution witnesses in the next three months if the petitioner's trial is separated from the absconding co-accused.

8. Considering the facts and circumstances of this case and taking into account the reason for delay in concluding the petitioner's trial as discussed above, as well as the seriousness of the allegation, this Court is not inclined to accept the petitioner's second bail prayer for the present. Accordingly, his present bail prayer stands rejected.

9. Petitioner is again given liberty to renew his bail prayer
after three months, if any significant progress is not made in
his trial in the said period.

(Shailendra Singh, J)

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