

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42971 of 2022

Arising Out of PS. Case No.-169 Year-2019 Thana- MATIHANI District- Begusarai

BUDHAN SINGH @BUDDHAN SINGH Son of Ramsharan Singh Resident
of Village - Ramdiri Mahaji, P.s.- Matihani , Distt.- Begusarai.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Jai Prakash Singh, Advocate

For the Opposite Party/s : Mr.Md.Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-08-2023 Heard learned counsel for the petitioner and Mr. Md.
Fahimuddin, learned APP for the State.

2. Petitioner in the present case has renewed his prayer for regular bail in connection with S.T. No. 285 of 2020 arising out of Matihani P.S. Case No. 169 of 2019 punishable for the offence registered under Sections 353, 307, 414 of the Indian Penal Code and Under Sections 25(1-b)A, 26, 27, 35 of Arms Act .

3. Earlier his prayer for regular bail was rejected by this Court vide order dated 01.07.2021 passed in Cr. Misc. No. 16346 of 2021. While rejecting his prayer, this Court directed the learned trial court to conclude the trial on an early date considering that the petitioner is in custody since 20.11.2019. At the same time, this Court observed that in case the trial is not concluded within a period of one week after start of normal



functioning of the Court for no reason attributable to the petitioner, he may renew his prayer for bail.

4. Learned counsel for the petitioner submits that as per allegations the petitioner had indulged in firing upon police party, however, there is no injury to any of the member of police party and further allegation is that from his possession one semi-automatic rifle with one live cartridge and one country made pistol and 19 live cartridges were seized. He has got six criminal antecedents but in all the cases he has been granted bail.

5. Learned counsel submits that so far as the present case is concerned, the petitioner has remained in custody for three years nine months by now and he has completed more than half of the maximum sentence which may be imposed upon him under the given provisions of the Arms Act.

6. Learned counsel for the petitioner submits that since there is no injury and sign of firing, Section 307 of the Indian Penal Code would not be attracted. It is also pointed out that both the seizure list witnesses are *Havaldar* and *Sipahi* respectively.

7. Mr. Md. Fahimuddin, learned APP for the State is present and on query made by this Court learned APP accepts the submission of learned counsel for the petitioner that the



maximum period of sentence would be upto seven years under the provision of the Arms Act.

8. This Court had also called for a report from the learned trial court from which it appears that out of seven witnesses in the charge-sheet, till date only one witness has been examined.

9. Having regard to the above mentioned submission wherein the petitioner has already remained in custody for 3 years 9 months and till date only one witness has been examined despite observation of this Court and it is submitted that there is no sign of firing and injury to anyone to attract Section 307 IPC and that he has completed more than half of the maximum period of sentence which may be awarded to him if at all he is found guilty under the provisions of the Arms Act, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge- IVth, Begusarai in connection with S.T. No. 285 of 2020 arising out of Matihani P.S. Case No. 169 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. and further condition that petitioner shall co-operate in the trial and shall appear on



each and every date fixed by the court and shall remain physically present as and when directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

10. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

11. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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