

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45855 of 2022

Arising Out of PS. Case No.-154 Year-2019 Thana- NAGAR District- Vaishali

Nand Kishore Rai, Son of Late Jamuna Rai, Resident of Mohalla - Purani
Gandak Pul Road, Johari Bazar, P.S.- Hajipur Town, Distt.- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Kamlesh Kumar, Advocate

Ms. Kahkashan Alam, Advocate

For the Opposite Party : Mr. Mukesh Kumar Singh, APP

For the Informant : Mr. Rajeev Ranjan Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-06-2023 Heard learned counsel for the petitioner and learned APP
for the State as also learned counsel for the informant.

The informant has entered appearance in this case on his
own.

By filing this application, the petitioner has renewed his
prayer for regular bail in connection with Hajipur Town P.S. Case
No. 154 of 2019 registered for the offences punishable under
Sections 341, 323, 326, 307, 504, 506/34 of the Indian Penal Code.
He is in custody since 26.08.2020. He has got one criminal
antecedent as mentioned in paragraph '3' of the supplementary
affidavit.

Earlier the prayer for bail of the petitioner was rejected
by this Court vide order dated 12.03.2021 passed in Cr. Misc. No.
1254 of 2021 with an observation that the trial court is expected to
proceed with the trial as expeditiously as possible and the



prosecution must cooperate in course of trial.

Learned counsel for the petitioner has filed 4th supplementary affidavit enclosing therewith a copy of the ordersheets of the learned trial court showing that no prosecution witness has turned up despite issuance of summons to the witnesses to support the prosecution witness. Learned counsel submits that in such circumstance, the petitioner cannot be kept in confinement for an indefinite period when the prosecution is not cooperating.

Learned counsel for the informant has submitted on instruction that the informant has entered into a compromise and for that reason, he is not interested in the present trial of the petitioner. Learned counsel for the informant accepts that the informant is not putting appearance in course of trial to support the prosecution case for the reason of his compromising the case. Learned counsel for the informant, therefore, submits that in such circumstance nothing remains for him to oppose in this application.

This Court had also earlier called for a report from the learned trial court. In its report dated 15th October 2022, the trial court has informed that summons have been issued to the prosecution witnesses and the case is fixed for evidence on 04.11.2022. At the said stage, the court was expecting to conclude the trial within one year but fact remains that despite summons the prosecution witnesses are not putting appearance and the reasons are now known from the statement of the learned counsel



representing the informant.

In the aforesaid view of the matter, this Court is of the considered opinion that the petitioner cannot be kept in confinement for an indefinite period.

Let 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 District and Sessions Judge-XIII, Hajipur at Vaishali in connection with Hajipur Town P.S. Case No. 154 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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 step 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.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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