

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48927 of 2022

Arising Out of PS. Case No.-38 Year-2018 Thana- BEERPUR District- Begusarai

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RANJEET MALAKAR SON OF RAMCHARITRA MALAKAR, R/O
VILLAGE- MAIDA BABHANWANGAWA, P.S.- BIRPUR, DISTRICT-
BEGUSARAI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mr.Yogendra Kumar

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

8 19-05-2023 Heard the learned counsel for the petitioner as well as
the learned counsel for the informant.

The petitioner is seeking regular bail in connection
with S. Tr. No. 543 of 2018, arising out of Birpur P.S. Case
No.38 of 2018, registered for offence punishable under Sections
147, 148, 149, 302, 341 and 323 of the Indian Penal Code.

At the very outset, the learned counsel for the
petitioner has submitted that, though the bail petition of the
petitioner has been rejected on three-four occasions, but he is
renewing his prayer for bail on the ground that he is under
custody since 07.05.2018 and the trial has not been concluded
up-till now. It was on the verge of conclusion. Meantime, a
petition was filed on behalf of the prosecution to amend the



charge and it was allowed, vide order dated 14.10.2022. It has been submitted further that due to de novo trial, the hardship shall be caused to the petitioner, as he would remain in custody for a considerable long duration. It has also been submitted that the charges were framed on 11.10.2018. Total eight prosecution witnesses have been examined. The last witness was examined on 23.12.2019. The statement of the accused was recorded on 06.12.2019. Thereafter, three defence witnesses were examined and the last defence witness was examined on 14.01.2020. Thereafter, the record was fixed for argument and, at that stage, a petition for amending the charge under Section 216 of the Code of Criminal Procedure was filed by the prosecution and was allowed by the trial court.

On the other hand, the learned counsel for the informant has opposed the prayer for bail and submitted that the amendment of the charge is not of such nature that requires de novo trial. The witnesses, on the point of amended charge, have already been examined. The prosecution, due to amendment of the charge, has not to adduce any fresh evidence or to recall the witnesses, who have already been examined. He has also submitted that the trial shall not be hindered due to amendment of the charges. The learned APP has submitted that



the petitioner himself filed a petition under Section 482 of the Code of Criminal Procedure against the order, whereby the charges have been amended, which hinders in disposal of the trial. The learned counsel has submitted further that this Court has already directed for expeditious trial of the case and the prosecution shall fully cooperate in expeditious disposal of the case.

Considering the above-mentioned facts and circumstances, it is observed that if the trial is not concluded within a period of three months, except due to act of the defence, the petitioner may renew his prayer for bail.

The prosecution and the defense, both are expected to fully cooperate with the learned court below in expeditious disposal of the trial.

With these observations, this petition is disposed of.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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