

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48932 of 2022**

Arising Out of PS. Case No.-334 Year-2015 Thana- PIRPAINTI District- Bhagalpur

Rajesh Rajak @ Rajesh Kumar Rajak S/O Kanhai Rajak Resident Of Village-
Bhakhanpur, P.S.- Pirpainti, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate
For the Opposite Party/s : Mr. Kalyan Shankar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER**

4 11-01-2023 Heard Mr. Rajive Ranjan Singh, learned counsel for
the petitioner and Mr. Kalyan Shankar, learned A.P.P. for the
State.

Petitioner, who is in custody since 05.03.2016, seeks
regular bail in connection with Sultanganj P.S. Case No. 67 of
2019 registered for offences punishable under Sections 304(B)
and 34 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner
submitted that the petitioner has approached this Court on four
occasions by filing Cr. Misc. No. 24154 of 2021 which was
rejected vide order dated 17.01.2022, Cr. Misc. No. 24179 of
2017 which was rejected vide order dated 07.07.2017 and Cr.
Misc. No. 58719 of 2018 which was rejected vide order dated
10.10.2018 and this Court was pleased to direct the petitioner



for renewal of his prayer for bail in case the trial is not concluded within the time fixed by the Trial Court.

In such circumstances, report was called for vide order dated 23.11.2022 regarding trial from the Trial Court. It has been informed that only one accused is to be examined against whom process of non-bailable warrant under Section 82 Cr.P.C. and 83 Cr.P.C. has been issued and the case is still pending for appearance of absent accused.

In view of the report, this Court has asked learned counsel appearing on behalf of the petitioner as to whether the absent accused namely, Bijay Rajak is connected with him in any manner, to which he replied after verifying the record that he is brother of the petitioner. He further submitted that petitioner is in custody for nearly six years and ten months that is from the date of arrest (05.03.2016). He further submitted that petitioner is poor person and he has one daughter to be taken care of as there is no one to look after her. The petitioner may be sympathetically released on bail.

Considering the period of custody undergone by the petitioner as well as the little child who is to be looked after and who is in need of parent, this Court finds that trial has remained pending for more than six years and to keep him behind the bar



as an under trial infringes right granted under Article 21 of the Constitution of India.

In the above facts and circumstances and taking into consideration the period of custody undergone by the petitioner and the trial is pending, the petitioner, above named, is directed to be released on bail with a condition that after his release he will file an affidavit giving the whereabouts of his brother namely, Vijay Rajak, who is co-accused and for whose examination the trial is still pending. Further on such terms and conditions as fixed by the trial court. In case affidavit is not filed within one week, the bail bond of the petitioner will be cancelled.

The Trial Court must take appropriate action against the absent accused.

Accordingly, the present bail application is disposed of.

(Purnendu Singh, J)

Niraj/Nilmani

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