

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58740 of 2022**

Arising Out of PS. Case No.-311 Year-2019 Thana- MAHARAJGANJ District- Siwan

Ashwani Kumar @ Ashwini Kumar, S/O Devanand Prasad, Resident of
Village- Purani Bazar Mahrajganj, P.S.- Mahrajganj, District- Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

8 22-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner in the present case is seeking renewal for his prayer for bail in connection with Session Trial No. 37 of 2021 arising out of Mahrajganj P.S. Case No. 311 of 2019 registered for the offences punishable under Sections 302, 120B, 34 of the Indian Penal Code and Section 27 of the Arms Act. He has one criminal antecedent. He is in custody since 02.12.2019.

3. Earlier, his prayer for bail was rejected by this Court vide order dated 29.07.2021 passed in Cr. Misc. No. 5548 of 2021 after noticing the allegation against the petitioner and the submission of learned APP for the State.

4. It is alleged that the petitioner had fired on the head of the son of the informant and he was caught by the crowd and



from possession of petitioner one country made pistol with one cartridge in the pistol and three cartridges in the magazine were recovered.

5. Learned counsel for the petitioner submits that for the alleged recovery of fire arms, a separate case being Maharajganj P.S. Case No. 310 of 2019 was registered under various provisions of the Arms Act but in course of trial, the prosecution failed to adduce any evidence as a result whereof the petitioner has been acquitted in the said case.

6. Learned counsel for the petitioner, therefore, submits that the prosecution has failed to substantiate the allegation that the petitioner was caught by the crowd and from his possessions a pistol and one live cartridge were recovered.

7. Learned APP for the State has opposed the prayer for bail of the petitioner.

8. This Court had called for a report from the learned trial court as to the present stage of the trial and the time likely to be taken in conclusion thereof. The report has been received from which it appears that summons, bailable and non-bailable warrants have been issued through Superintendent of Police, Siwan to the prosecution witnesses but till date only one witness has been examined.



9. Having regard to the aforementioned circumstance, even though on considering the gravity of the offences alleged, this Court is not inclined to release the petitioner on bail at this stage but the prosecution of the petitioner must be concluded within a period of six months, as stated in the report of the learned court below.

10. If the prosecution does not co-operate in conclusion of trial within a reasonable period, it will be open for the petitioner to make a prayer for bail in the learned trial court. In such circumstance, the prayer for bail of the petitioner shall be considered by the learned trial court on its own merit without being prejudiced by the earlier order of this Court rejecting the prayer for bail of the petitioner.

11. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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