

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56703 of 2023

Arising Out of PS. Case No.-455 Year-2021 Thana- JOKIHAT District- Araria

Mantu @ Md Sarwar Alam @ Sarwar, Son of Sabir, Resident of Village -
Bairgachhi, P.S. - Araria (Bairgachhi), District - Araria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Ziaul Quamar, Advocate

For the Opposite Party/s : Mr.Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 08-09-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. In the present case, the petitioner, who is in custody since 20.09.2021, has renewed his prayer for bail in connection with Jokihat P.S. Case No. 455 of 2021, having earlier been rejected by order dated 09.11.2022 passed in Cr. Misc. No.4042 of 2022 for the alleged offences under Sections 364 (A) and 120 (B) of the Indian Penal Code.

3. As per prosecution case, the four years old son of the informant was kidnapped by unknown miscreants for ransom, but later on the child was recovered. The name of the petitioner transpired as the person who enticed away the child by giving inducement of chocolate and biscuit and handed him over to the co-accused persons, who subsequently demanded



ransom amount from the informant.

4. The learned counsel for the petitioner submits that this is the second attempt of the petitioner to seek bail from this Court as his prayer for bail was earlier rejected vide order dated 09.11.2022 passed in Cr. Misc. No.4042 of 2022. The learned counsel further submits that while rejecting the prayer for bail of the petitioner, the learned trial court was directed to conclude the trial within a period of nine months, but till date none of the witnesses have been examined and the petitioner is in custody since 20.09.2021. There is no likelihood of early conclusion of the trial. The learned counsel further submits that the co-accused Md. Afaque Alam has been granted bail by a Coordinate Bench of this Court vide order dated 11.01.2023 passed in Cr. Misc. No.30050 of 2022.

5. Learned A.P.P. opposes the prayer for bail of the petitioner. The learned APP submits that no fresh ground has been brought on record to consider the prayer for bail of the petitioner.

6. On the last occasion, a report was called for from the learned trial court and subsequently a report dated 29.08.2023 has been received from the learned Sessions Judge, Araria wherein he has submitted that after framing of charge on



19.12.2022, a number of steps have been taken by the learned trial court for production of the prosecution witnesses even by issuingailable and non-ailable warrant and communication has also been made from the Superintendent of Police, Araria and the Director General of Police, Bihar, Patna. Despite the sincere efforts taken by the court, the prosecution has failed to produce a single witness. The report brings to fore the apathy of the prosecution and shown its minimal interest towards taking any steps to bring the trial to its logical end.

7. Having regard to the facts and circumstances of the case and submissions made here-in-above and considering the slow pace of the trial and no likelihood of its conclusion in near future and further considering the period of custody of the petitioner, he is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Araria, in connection with Sessions Trial No. 56 of 2022, arising out of Jokihat P.S. Case No. 455 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.



(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

8. Since the present case is an example of failure of prosecution to ensure the production of the witnesses and it reflects very sorry state of affairs of State administration, let a copy of this order be sent to the Chief Secretary, Government of Bihar, Patna as well as the Director General of Police, Bihar, Patna for taking necessary action.

(Arun Kumar Jha, J)

V.K.Pandey/-

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