

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61172 of 2023

Arising Out of PS. Case No.-129 Year-2021 Thana- HUSSAINGANJ District- Siwan

Sallu Mian Son Of Munshi Mian @ Hedaytullah Khan Resident Of Village -
Pratap, P.S. - Hussainganj, District - Siwan

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Yogesh Chandra Verma, Sr. Advocate Mr.Rizwanul Jama Khan, Advocate Ms.Priyanka Singh, Advocate
For the Opposite Party/s :	Mr.Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 06-10-2023 Heard Mr. Yogesh Chandra Verma, learned senior
counsel assisted by Mr. Rizwanul Jama Khan, learned counsel
for the petitioner.

2. It is submitted by Sri Yogesh Chandra Verma, learned senior counsel that a time bound observation was made by this Court while rejecting earlier prayer of this petitioner vide order dated 15.02.2023 passed in Cr. Misc. No. 49469/2022, where a direction was given to the learned trial court, as to conclude the trial within six months by taking this matter on Board, if required on day to day basis. It is further submitted that a liberty was also granted to renew prayer of bail if trial court fails to conclude the trial within six months as directed.

3. It is pointed out that till date not even a single charge-sheet witness was examined before the learned trial court



where the petitioner is in custody since 18.08.2021 and certainly for the reason that there is delay in conclusion of trial, the petitioner cannot be kept behind the Bar, for an indefinite period.

4. A report was also called for from the learned trial court regarding status of trial, wherein the report dated 27.09.2023 bearing letter no. 249/2023 as made available to this Court by the concerned court stating that even if after issuing non-bailable warrant upon the witnesses neither private witnesses nor official witnesses turned up in support of the prosecution case. It also appears from the order dated 11.08.2023 of trial court that prosecution is not appearing interested to produce witnesses, despite of issuing non-bailable warrant, and delay due to laches of prosecution.

5. Learned A.P.P. for the State submitted that the prayer of bail of the petitioner has already rejected vide order dated 15.02.2023 passed in Cr. Misc. No. 49469/2022 and there is no fresh circumstances except period of custody.

6. In view of the above-mentioned facts and circumstances, as report of trial court giving a *prima-facie* impression that it was laches on the part of the prosecution for which not even a single witness was examined, where petitioner



is in custody since 18.08.2021. Accordingly, the above-named petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, Siwan in connection with S.T. No. 336 of 2021 arising out of Hussainganj P.S. Case No. 129 of 2021, subject to conditions as laid down under Section 437(3) of the Cr.P.C. and with further conditions:

(1) That petitioner shall co-operate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner duly supported by the documents.

(2) That the petitioner shall in no way try to induce or influence the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Chandra Shekhar Jha, J.)

Sanjeet/Rajeev-

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