

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66397 of 2022

Arising Out of PS. Case No.-33 Year-2018 Thana- BHEJA District- Madhubani

Amar Mukhiya @ Amarjit Mukhiya S/O Bhola Mukhiya Resident of village-
Daldal, P.S.- Bheja, District- Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 66597 of 2022

Arising Out of PS. Case No.-33 Year-2018 Thana- BHEJA District- Madhubani

Bhola Mukhiya, Son of Late Kapleshwar Mukhiya, R/v- Daldal, P.S.- Bheja,
District- Madhubani

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 66397 of 2022)

For the Petitioner : Mr. Manish Kumar No.3, Advocate
Mr. Jitendra Kumar Bharti, Advocate

For the State : Mr. Umesh Lal Verma, APP

For the Informant : Mr. Ashok Verma, Advocate

(In CRIMINAL MISCELLANEOUS No. 66597 of 2022)

For the Petitioner : Mr. Manish Kumar No.3, Advocate
Mr. Jitendra Kumar Bharti, Advocate

For the State : Mr. Umesh Lal Verma, APP

For the Informant : Mr. Ashok Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 06-10-2023 Heard learned counsel for the petitioners, learned APP
for the State and learned counsel for the informant in both the
applications.

2. The petitioners in these two applications have
renewed their prayer for regular bail in connection with Bheja
P.S. Case No. 33 of 2018 registered for the offences punishable
under Sections 147, 148, 149, 341, 323, 324, 325, 354, 448,



307, 302 and 504 of the Indian Penal Code. They are in judicial custody since 15.03.2019. They have otherwise no criminal antecedent.

3. As per the prosecution story, one Hira Devi (informant) alleged that all the accused persons including the petitioners armed with different weapons entered into her courtyard and started assaulting the informant and other family members of the informant. The accused Ramnarayan Mukhiya, Bhola Mukhiya (petitioner in Cr. Misc. No. 66597 of 2022) and Amar Mukhiya (petitioner in Cr. Misc. No. 66397 of 2022) allegedly assaulted Puran Mukhiya (husband of the informant). The husband of the informant got injuries on his head, he was referred to D.M.C.H. but died on 16.04.2018.

4. The prayer for bail of the petitioners was considered by a learned Co-ordinate Bench of this Court in Cr. Misc. No. 79136 of 2019. The Court noticed the submissions on behalf of the petitioners that only two injuries have been found on the head of Puran Mukhiya and the other accused persons have already been granted bail but the learned Co-ordinate Bench was not inclined to grant privilege of bail to the petitioners. The said application was rejected vide order dated 28.05.2020 with a direction to the learned trial court to hold the



trial on day-to-day basis and conclude the same within nine months from the date of receipt of the order. The Court further observed that if the trial is not concluded within nine months without fault of the petitioners, the petitioners may renew their prayer for bail thereafter.

5. It further appears from the records that both the petitioners moved once again in Cr. Misc. No. 64298 of 2021 and Cr. Misc. No. 66737 of 2021. In course of hearing of those bail applications, this Court noticed the specific statement in paragraph '9' of the petition saying that till date, no witness has been examined and there was no likelihood that the trial would be concluded within a reasonable time. But at this stage, learned counsel for the informant intervened and placed before this Court a copy of the depositions which had taken place in course of trial. This Court was given to understand that now the prosecution witnesses had already been examined, hence, it would not be correct to say that there is no progress in course of trial. Considering this aspect of the matter that the trial has already begun and the witnesses have been examined, this Court refused to release the petitioners on bail and directed the learned trial court to complete the trial preferably within a period of six months from the date of receipt/production of a copy of the



order.

6. Today, learned counsel for the petitioners submits that on 05.05.2022, when this Court lastly rejected the prayer for bail of the petitioners, this Court was misled by learned counsel for the informant in saying that now the prosecution witnesses had already been examined. It is submitted that it is under that impression this Court had rejected the prayer but the fact is that in the Sessions Trial No. 94 of 2020 in which these petitioners are facing trial, not a single witness has been examined. It is submitted that the petitioners have already spent four and half years in incarceration and this includes more than two and half years after framing of charge.

7. Learned APP for the State as well as learned counsel for the informant are present. They have opposed the prayer for bail of the petitioners but learned counsel for the State and the informant are unable to dispute the contention of learned counsel for the petitioners that in Sessions Trial No. 94 of 2020, not a single prosecution witness has been examined so far.

8. This Court has also got a report from learned trial court which is available at Flag 'A'. The report clearly states that the charges were framed in this case on 20.01.2021 and



summons have been issued to the prosecution witnesses but the prosecution has not examined any witness so far.

9. Having regard to the entirety of the facts and circumstances of the case, the fact that the petitioners have already remained in incarceration for more than four and half years by now and till date, not a single prosecution witness has been examined and it is not the case of the State or the informant that if released on bail, their appearance cannot be secured in course of trial as also finding that they have otherwise no criminal antecedent, this Court directs that the petitioners above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge, Jhanjharpur, District-Madhubani in connection with Bheja P.S. Case No. 33 of 2018, subject to the condition as laid down under Section 437 (3) Cr.P.C.

10. And further condition that they shall appear in the trial court on each and every date fixed in the matter and two consecutive defaults in putting appearance shall invite action towards cancellation of the bail bond.

11. And further condition that the court below shall



verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

12. Both the applications stand disposed of.

(Rajeev Ranjan Prasad, J)

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