

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3906 of 2023

Arising Out of PS. Case No.-103 Year-2018 Thana- NIMCHAKBATHANI District- Gaya

Raju Miyan @ Raju Mian @ Raju Miya @ Md Rameej Akram @ Md Rameez Akram @ Md Ramij Akram @ Raju Alam S/o Ekram Mian @ Md. Ekram Hassan R/v- Simraur, P.S.- Neemchak Bathani, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate. Mr. Ranjeet Choubey, Advocate.
For the Opposite Party/s	:	Mr. Satyendra Narayan Singh, APP.
For the Informant	:	Mrs. Vaishnavi Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 22-03-2023 Heard Mr. Y. V. Giri, learned senior counsel, duly assisted by Mr. Ranjeet Choubey, learned counsel for the petitioner, Mrs. Vaishnavi Singh, learned counsel for the informant and Mr. Satyendra Narayan Singh, learned APP for the State.

This is the 3rd attempt at the behest of the petitioner, renewing his prayer for bail in connection with Neemchak Bathani P.S. Case No. 103 of 2018 registered for the offence under Sections 147, 148, 149, 302, 120B of the Indian Penal Code and Section 27 of the Arms Act.

Initially, at the first attempt, the prayer for bail of the petitioner was rejected by the learned coordinate Bench of this



Court in Cr. Misc. No. 73430 of 2019 after taking into consideration the specific nature of accusation and the criminal antecedent. The petitioner further renewed his prayer for bail in Cr. Misc. No. 40861 of 2021 wherein considering the serious ailment of his loss of vision by the team of Doctors of the IGIMS, Patna who referred the petitioner for better treatment to All India Institute of Medical Science, Delhi, the petitioner was released on provisional bail for a period of three months. The aforementioned Cr. Misc. No. 40861 of 2021 was ultimately withdrawn by the petitioner on account of his being arrested in a criminal case, being Neemchak Bathani P.S. Case No. 45 of 2022.

Mr. Giri, learned senior counsel appearing on behalf of the petitioner submits that there is omnibus allegation of firing against ten named accused persons. However, only two injuries have been found, apart from the fact that five named accused persons against whom there is specific allegation of firing, the police exonerated three of them and submitted Final Form showing them innocent. Hence, the aforesaid facts completely belies the entire prosecution case that too when the case has been lodged in the background of previous enmity, as the petitioner had earlier instituted a criminal case against the



son of the informant (deceased) being Neemchak Bathani P.S. Case No. 09 of 2016. Apart from the aforesaid submissions, he also submits that the deceased was a dreaded criminal having various criminal cases pending against him, the particulars of which has been mentioned in paragraph no. 15 of the petition. He next submits that other co-accused persons, having more or less similar allegation, have even been allowed the privilege of anticipatory bail by different Coordinate Benches of this Court and the petitioner is in custody since 06.08.2019.

While concluding his argument, he lastly submits that though the petitioner is carrying 12 criminal antecedents, besides the present one, but all are resultant of local politics, apart from the fact that out of 12 cases, the police has submitted final form showing him innocent in four cases.

On the other hand, Mrs. Vaishnavi Singh, learned counsel appearing on behalf of the informant, vehemently opposes the prayer for bail of the petitioner and submits that earlier the prayer for bail of the petitioner had already been rejected by the learned coordinate Bench of this Court taking into consideration the specific nature of accusation and his long list of criminal antecedent. She further submits that one another co-accused, namely, Chote Lal Mistry @ Chotey Lal Mistry,



having exactly similar allegation, had thrice moved before this Court for grant of regular bail in connection with the present case in Cr. Misc. No. 65691 of 2022, however, the learned coordinate Bench having found specific nature of accusation and no change in the circumstances rejected his prayer for bail, the copy of the said order has been placed before this Court and the same has been taken on record. It is next submitted that the conduct of the petitioner while he was on provisional bail also speaks volume that he is a habitual offender indulged in various kind of criminal activities, inasmuch as, while he was on provisional bail, he was arrested by the local police along with other criminals, who were assembled in his house with a huge cache of arms and ammunition resulted into lodging of Neemchak Bathani P.S. Case No. 45 of 2022 on 27.03.2022 itself. She lastly submits that now the charges have already been framed and only two private prosecution witnesses are yet to be examined and on the last date fixed in the trial both the prosecution witnesses were present, but albeit they have not been examined without any justifiable reason.

Learned counsel for the State also opposed the prayer of the petitioner and submits that there is ample evidence collected during the course of investigation, apart from the fact



the trial is likely to be concluded within a reasonable period.

At this juncture learned senior counsel appearing on behalf of the petitioner confronted the submissions and submits that the recovery has not been made from the conscious possession of the petitioner and in fact only two mobiles have been recovered from his possession.

Having regard to the facts and circumstances of this case, especially the conduct of the petitioner, while he was on provisional bail, when he was apprehended by the police along with huge cache of arms and ammunition, as also the fact that prayer for bail of the co-accused person, having similar allegation, has been turned down by the learned coordinate Bench of this Court, apart from a long list of criminal cases pending against the petitioner, this Court is not persuaded to enlarge the petitioner on bail, for present.

However, it is expected that the learned trial court shall take all the endeavours to conclude the trial as early as possible preferably within a period of three months, from the next date fixed in the trial failing which the petitioner would be at liberty to renew his prayer for bail, if there is no development in the trial and for which the petitioner is not responsible.

This Court also expects that the Superintendent of



Police, Gaya will extend all the assistance in production of the witnesses in order to conclude the trial within the stipulated period as prescribed thereof.

The copy of this order be communicated to both the Superintendent of Police, Gaya and the Court concern forthwith.

(Harish Kumar, J)

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