

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12005 of 2024**

Arising Out of PS. Case No.-683 Year-2021 Thana- SITAMARHI District- Sitamarhi

Santosh Kumar SON OF Bhola Mahto RESIDENT OF VILLAGE-
BELAHIYA, PS- SURSAND, DIST- SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N. K. Agarwal, Sr. Advocate

For the Opposite Party/s : Ms. Suman Kumari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER**

3 17-05-2024 Heard Mr. N. K. Agarwal, learned Senior Counsel
for the petitioner and Ms. Suman Kumari Singh, learned APP.

2. The petitioner is in custody in connection with Sitamarhi (Mehsaul O.P.) P.S. Case No. 683 of 2021 for the offence punishable under sections 302, 307, 120B, 379 & 34 of the Narcotic Indian Penal Code and section 27 of the Arms Act lodged on 25.08.2021 by the informant, Shiv Shankar Mahto.

3. Earlier the bail application of the petitioner was twice rejected vide Cr. Misc. No. 71957 of 2021 and Cr. Misc. No. 57655 of 2022.

4. In the second order, the trial court was directed to expedite the trial and conclude the same within one year. This order was passed on 02.11.2022.

5. Now, the third bail petition has been filed in which



a report was called for on 23.02.2024 from the trial court.

6. The report has now come vide letter no. 32 dated 15.03.2024 from the Court of learned 2nd Additional Sessions Judge, Sitamarhi and it read as follows:

“Sir,

Most humbly and respectfully, it is, submitted regarding stage of the case under noted subject is that one prosecution witness has been examined and the case is pending for evidence of prosecution and awaiting for stay vacation order from the Hon'ble High Court.

It is, humbly further submitted that the Hon'ble High Court has been pleased to stay the operation of the Order dated 13.02.2023 in Cr. Misc. No. 25283 of 2023 (Tipu @ Md. Mumsad @ Mumsad Alam Vs. The State of Bihar) vide order dated 25.07.2023. The charges have been framed against the accused petitioner Santosh Kumar and three other co-accused persons and the trial of the present accused petitioner Santosh Kumar and other three co-accused persons are going on together. Due to the stay order by the Hon'ble High Court proceeding of the case is stayed at present.

It is, therefore, requested that this



report may kindly be placed before the Hon'ble High Court for its kind consideration and needful.

For this act of kindness, I shall ever be obliged.”

7. This Court has checked from the website of the concerned case from which it is clear that the proceeding related to Sitamarhi (Mehsaul O.P.) P.S. Case No. 683 of 2021 stands stayed in Cr. Misc. No. 25283 of 2023 and the co-ordinate Bench passed the following order:

“1. Heard learned counsel for petitioner and learned Additional Public Prosecutor.

2. Issue notice to the opposite party No. 2 through ordinary process as well as under registered cover with A/D, requisites etc. for which must be filed within ten days.

3. List this case on 30.01.2024 for further hearing.

4. In the meantime, the operation of order dated 13.02.2023 passed in connection with S.Tr. No. 216 of 2022 arising out of Sitamarhi P.S. Case No. 683/2021; G.R No. 3406/2021 shall remain stayed.”

8. Learned Senior Counsel submits that from the aforesaid fact, it is clear that there is no sight of the conclusion



of trial and he has already remained in custody since 26.08.2021 (as stated in paragraph 12 of the petition), almost three years.

9. Learned APP opposes the prayer stating that there is allegation against him though she concedes that since the entire proceeding stands stayed, the trial cannot be concluded at this stage.

10. Learned Senior Counsel submits that if the petitioner is granted bail, he shall be diligently appearing in trial failing which the trial court can take appropriate steps for the cancellation of his bail bond.

11. Taking into account the aforesaid facts as also the stay order in Cr. Misc. No. 25283 of 2023, the report of learned 2nd Additional Sessions Judge, Sitamarhi, this Court has no option but to extend the relief of the petitioner with conditions.

12. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned 2nd Additional Session Judge, Sitamarhi, in connection with Sitamarhi (Mehsaul O.P.) P.S. Case No. 683 of 2021 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show



his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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