

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15520 of 2024

Arising Out of PS. Case No.-157 Year-2020 Thana- SAKRA District- Muzaffarpur

Vicky Kumar son of Nand Kishrore Rai Village- Shiv Nagar PS- Tephi Dist- Muzaffarpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Prabhakar Rai, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This is the third attempt of the petitioner to obtain bail in connection with Sakra P.S. Case No. 157 of 2020 registered for the offences punishable under Sections 302 and 201 of the Indian Penal Code. He is in custody since 01.06.2020. The petitioner has got no criminal antecedent.

3. Earlier his prayer for bail was rejected by this Court twice *vide* order dated 27.07.2021 and 28.06.2023 passed in Cr. Misc. No. 112 of 2021 and Cr. Misc. No. 54017 of 2022 respectively.

4. As per the prosecution story, the son of the informant was running a small shop of chocolate-biscuit in front of the college gate. He closed his shop at about 8:00 PM and left



for his house but did not reach his home. In the next morning, at about 10:00 AM, the dead body of the son of the informant was found in the field. The informant claimed that he had no enmity with anyone but he had come to know from the local villagers that in the neighbouring vegetable shop, some miscreants were assembling and on some dispute, his son has been killed.

5. Learned counsel for the petitioner submits that the petitioner is not named in the FIR, he is the neighbouring shop owner who has his shop beside the shop of the son of the informant and he has been involved in this case on mere suspicion.

6. Learned counsel further submits that earlier this Court had rejected prayer for bail of the petitioner noticing that two witnesses have stated that they had seen the petitioner on the alleged night but there is no witness saying that the petitioner had been seen committing the alleged crime. It is further submitted that there was an observation of this Court in its first order that all endeavours be made by the learned trial court to conclude the trial within a period of one year from the start of normal functioning of the court and if the trial remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.



7. Learned counsel submits that based on the first observation when the petitioner moved again, this Court noticed the submission of learned counsel for the petitioner, called for a report and found that the prosecution had examined only one witness who had been examined and remained partly cross-examined. The court of 12th Additional District and Sessions Judge was vacant since 11.04.2022. This Court once again directed the learned Additional District and Sessions Judge, Muzaffarpur to ensure that either the records of the case be transferred to any other court to facilitate the progress in trial or make the Incharge court to continue with the trial and record the evidences of the witnesses as and when produced. This Court further observed that all endeavours be made to conclude the trial within a period of six months and if the trial is not concluded within the aforesaid period, it will be open for the petitioner to apply for bail in the learned trial court, if so advised.

8. Learned counsel submits that pursuant to the aforesaid observation, the petitioner having found that the trial is not progressing, filed an application in the trial court itself for grant of bail which was considered and rejected *vide* order dated 18.01.2024. Learned counsel submits that in its order rejecting



the prayer for bail, the learned trial court has clearly recorded that the court is presently vacant and this Incharge court has been made incharge a week ago. It is submitted before this Court that till date, the petitioner no.1 has remained partly cross-examined only, therefore, the submission before this Court is that for last more than two years, the trial is not progressing and in the meantime, the petitioner has completed four years of custody in a case where there is no direct evidence against him and he is being prosecuted on the basis of circumstantial evidence.

9. Learned APP for the State is present and does not controvert the aforesaid submissions that the petitioner is in custody for more than four years and the trial of the case has not progressed.

10. In such circumstances, keeping in view the entire facts and circumstances recorded hereinabove, this Court directs release of the petitioner on bail, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-13, Muzaffarpur in connection with Sakra P.S. Case No. 157 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C.



11. Further condition that the petitioner shall ensure his presence in course of trial on each and every date fixed in the matter. Two consecutive non-appearance in course of trial shall invite steps towards cancellation of bail of the petitioner.

12. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. 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.

13. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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