

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32163 of 2024

Arising Out of PS. Case No.-224 Year-2021 Thana- DHANAHA District- West Champaran

Akash Kushwaha, Son of Late Bhola Kushwaha, R/o Village-Dawnaha, P.S.-
Dhanha, Dist- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Milind Kumar Mishra, Adv.
For the State	:	Mr. Anand Kishore Choudhary, APP
For the Informant	:	Mr. Bimlesh Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 13-09-2024 Heard Mr. Milind Kumar Mishra, learned counsel for the petitioner, Mr. Anand Kishore Choudhary, learned APP for the State and Mr. Bimlesh Kumar Pandey, learned counsel for the informant.

2. Petitioner seeks regular bail in connection with Dhanha P.S. Case No. 224/2021 dated 23.12.2021 registered for the offences punishable under Sections 302, 201, 120B read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Learned counsel for the petitioner submits that this is the second attempt of the petitioner to get the relief of regular bail as his earlier bail prayer was rejected by this Bench vide order dated 02.03.2023 passed in Cr. Misc. No.



64718/2022 and the petitioner has again come before this Court in the light of the liberty granted to him and as per the observation made by this Court, the petitioner is entitled to move his second bail prayer, if in one year from the date of rejection of his first prayer, no private prosecution witness has been examined in his trial and till date, even the trial has not started against him and his case is running for framing of charges. Learned counsel further submits that the petitioner has been made accused mainly on the basis of suspicion and four co-accused namely, Chhote Bharti, Jaichand Kushwaha, Guddu Gupta and Shivcharan Nishad have been granted bail by different co-ordinate benches of this Court vide orders passed in Cr. Misc. Nos. 28615/2022, 45627/2022, 46712/2022 and 46756/2022 respectively and the petitioner remained in Bettiah jail and thereafter, he was sent to Bagaha jail where he lived till March 2024 and since then, he has been languishing in Bagaha jail and his case was committed on 06.07.2024 and the petitioner's direct involvement in the alleged crime has not been alleged. It is further submitted that the petitioner has been languishing in jail since 12.09.2022 and in the trial of Dhanha P.S. Case No. 57/2020 in which the petitioner's role was suspected, he has been acquitted in the



said case and there is one more criminal case against him in which he is on bail.

4. On the other hand, learned counsel appearing for the informant has vehemently opposed the bail prayer of the petitioner with saying that one co-accused, namely, Vivek Mishra @ Ritik Mishra and some others have been convicted by the trial court and the bail prayer of two co-accused Sonu Yadav and Vivek Mishra have been rejected by a coordinate bench of this Court and the petitioner's prayer for bail has already been rejected on merit by this bench.

5. Heard both the sides and perused the relevant materials. Though no progress has been made in the trial of the petitioner in the last more than one year and the petitioner has come in the light of the liberty granted to him but as per the report sent by the trial court, it appears that on account of the non-appearance of all the accused, the petitioner's case could not be committed and the same was one of the reasons in the delay in commitment of his case and now the case of the petitioner is running for framing of the charge. Considering these aspects as well as seriousness of allegation, in my opinion, it will not be proper to enlarge the petitioner on bail at this stage. Accordingly, the prayer of the petitioner



stands rejected.

6. However, considering the informant’s counsel’s undertaking to produce and examine three material witnesses who are said to be the informant, the daughter of the deceased and one Murari before the trial court for recording their evidence, the petitioner is given a liberty to renew his bail prayer after the examination of the above three witnesses. The trial court is directed to examine the above mentioned witnesses at the earliest preferably within one month after the framing of charge and the informant shall be bound to produce these witnesses.

(Shailendra Singh, J)

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