

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32423 of 2024

Arising Out of PS. Case No.-561 Year-2019 Thana- DANAPUR District- Patna

Md. Anwar Hussain, Son of Manaur Hussain, Resident of Mohalla -
Khalilpura, P.S. - Phulwarisharif, District – Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-08-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. This is yet another attempt of the petitioner to obtain regular bail in connection with Danapur P.S. Case No. 561 of 2019 registered for the offences punishable under Sections 302, 120B, 224, 353, 307, 414/34 of the Indian Penal Code and Sections 25(1-b)a, 26, 27 and 35 of the Arms Act. The petitioner is in custody since 19.07.2019 having no criminal antecedent.

3. The prayer for bail of the petitioner was lastly rejected vide order dated 26.07.2023 in Cr. Misc. No. 55507 of 2022. In the order dated 26.07.2023, this Court recorded about a report from the learned trial court from which it transpired that altogether eight witnesses has been examined in this case but since 13.12.2022, no witness had been examined on behalf of

the prosecution. This Court having gone through the report of the learned trial court saying that the trial is expected to be concluded in six months' time, refused to grant bail to the petitioner. A direction was issued to SSP, Patna to execute summons/bailable warrants as the case may be against the prosecution witnesses. The Forensic Science Laboratory, Patna was also directed to send the witnesses on the dates fixed in the matter and the trial court was expected to conclude the trial within the expected time of six months as per its report. This Court observed in the concluding paragraph that in case the trial is not concluded within a period of six months from the date of receipt/production of a copy of the order, the petitioner will be at liberty to file an application for grant of bail in the court below itself which will be considered in accordance with law.

4. Pursuant to the aforesaid observations of this Court, as the trial was not concluded, the petitioner filed an application for bail in the trial court. The trial court has rejected the prayer for bail saying that out of total charge-sheet witnesses, fourteen witnesses have been examined till now and now the case is going for disposal.

5. As per the prosecution story, the informant who is a police personnel along with other police force was on duty from

9:30 A.M. on 10.07.2019. At about 4:30 PM, sound of firing was heard from the main gate of the court campus and one prisoner started fleeing towards the main gate of the court campus. It is alleged that 2-3 unknown persons also started running away with him. One Constable Prabhakar Raj along with other police personnel ran after the said prisoner to catch him. It is further alleged that while running away, one unknown person handed a pistol to the absconding prisoner who shot at Constable Prabhakar Raj due to which he sustained firearm injury and fell down there. The said prisoner was subsequently apprehended with the help of other policemen but his other associates succeeded in fleeing away. Upon inquiry, the arrested accused disclosed his name as Meraj Imam and from his possession, one pistol, one cartridge and one pellet were recovered.

6. Learned counsel for the petitioner has placed before this Court the order dated 09.04.2024 passed in Cr. Misc. No. 3846 of 2023 by which a learned co-ordinate Bench of this Court has been pleased to grant bail to the main accused Md. Meraj Imam @ Rinku @ Meraj Imam Akhtar Imam on the ground that he had already remained in jail for about five years and the trial was likely to take time.

7. Learned counsel has further submitted that this petitioner is in custody since 19.07.2019, therefore, he has spent more than five years by now and despite the expectation of the learned trial court in its order dated 19.03.2024 that the trial is going for disposal very soon, during last four and half months only one witness has been examined, therefore, three more witnesses are required to be examined and considering the pace of the trial, it may take another one year.

8. Learned APP for the State has though opposed the prayer for bail of the petitioner but having regard to the submissions noted hereinabove on behalf of the petitioner, this Court is of the view that the prosecution in this case is not showing any urgency towards conclusion of trial, otherwise what was expected to be completed within six months as per its own report of the learned trial court in the year 2022 could not be concluded during this two years' period. The petitioner has also remained in jail for over five years and the main assailant of the case has been enlarged on bail, therefore, this Court directs that the petitioner above named be released 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 Sessions Judge-VII, Danapur in connection with Sessions Trial

No. 1009 of 2019 arising out of Danapur P.S. Case No. 561 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

9. 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.

10. And further condition that the petitioner shall attend the trial of the case on each and every date fixed in the matter. Two consecutive defaults in putting appearance in the court below without there being any cogent reason shall invite action towards cancellation of bail bond of the petitioner.

11. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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