

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35728 of 2023

Arising Out of PS. Case No.-55 Year-2021 Thana- NARPATGANJ District- Araria

Abhay Bishwas @ Abhay Kumar Biswas S/o Arun Bishwash @ Arun Kumar Vishwas R/o Village- Majhuwa, Ward No. 6, P.S- Forbesganj, Distt.- Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with
CRIMINAL MISCELLANEOUS No. 37160 of 2023

Arising Out of PS. Case No.-55 Year-2021 Thana- NARPATGANJ District- Araria

Niraj Kumar Ram @ Niraj Kumar Son of Late Kishori Ram @ Kishore Ram Resident of Village- Bhagkohilia, PS- Forbesganj, District- Araria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 35728 of 2023)

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Bidhu Ranjan, Advocate

For the Opposite Party/s : Mr. Rina Sinha, APP

(In CRIMINAL MISCELLANEOUS No. 37160 of 2023)

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

For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 17-05-2024 Heard Mr. N.K. Agarwal, learned Senior counsel assisted by Mr. Bidhu Ranjan, learned counsel for the petitioner in Cr. Misc. No. 35728 of 2023 and Mr. Mrigendra Kumar, learned counsel for the petitioner in Cr. Misc. No. 37160 of 2023 and learned APP for the State.

2. By filing this application, the petitioners have



renewed their prayer for regular bail in connection with Narpatganj (Bathanaha) P.S. Case No. 55 of 2021 registered for the offences punishable under Sections 394, 307 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

3. As per the prosecution story, when the deceased Aman Gupta was returning with the informant Rahul Kumar Gupta after collecting money Rs. 2,00,000/- from different businessmen and reached Balugarh Sonapur near Chhoti Pulia, then four miscreants on two motorcycles stopped them. Two persons took away cash from the informant and one mobile phone of Aman Gupta. Aman Gupta tried to escape but in the meantime, the miscreants fired on the informant causing injury on the left thigh and also chased Aman Gupta and fired two shots on him and looted away cash from him. All the miscreants fled away towards Sonapur. Aman Gupta was brought to the Sadar Hospital where he was declared dead.

4. Earlier, while rejecting their prayer for bail in Cr. Misc. No. 68241 of 2021, this Court directed the learned trial court to expedite the trial and observed in the concluding paragraph as under:-

“If the trial remains unconcluded within a period of nine months for no reason attributable to the petitioners, they may renew their prayer for bail.”



5. Learned counsel for the petitioners would submit that despite issuance of warrant to the witnesses, not a single witness has turned up to depose in this case even as the charges were framed as back as on 21.10.2021. Specific statement in this regard has been made in paragraph '12' of the Cr. Misc. No. 37160 of 2023.

6. Attention of this Court has also been drawn towards observations of the learned trial court in the penultimate paragraph of the impugned order.

7. Learned APP for the State has though opposed the prayer for bail of the petitioners but no serious contest would be made to explain the fact that for more than two and half hours, no witness has turned up to support the prosecution case.

8. Having regard to the submissions noted hereinabove and the observations of this Court keeping in view the fact that the trial has not progressed for more than two and half years, this Court directs that the petitioners above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Araria in connection with Narpatganj (Bathanaha) P.S. Case No. 55 of 2021, 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 petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioners. 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. Both the applications are allowed.

(Rajeev Ranjan Prasad, J)

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