

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49299 of 2023

Arising Out of PS. Case No.-335 Year-2015 Thana- PATRAKARNAGAR District- Patna

MANOJ KUMAR Son of Sri Baldeo Prasad Resident of village - Medhakuri,
P.S. - Meshkaure, Distt. - Nawada Petitioner/s

Versus

THE STATE OF BIHAR Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjiv Sharan, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 23-02-2024 Heard learned counsel for the petitioner and the State.

2. The petitioner is in judicial custody in connection with Sessions Trial No. 350 of 2019 arising out of Patrakar Nagar P.S. Case No. 335 of 2015 for the offence under sections 364(A), 120(B) and 201 of the Indian Penal Code lodged on 6.11.2015 by the informant, Om Prakash Singh.

3. The prosecution story, in brief, is that on 24.10.2015, the son of the informant, Kaushal Kishore Singh, had gone to Patna and stayed in the residence of Ranjeet Singh. On 29.10.2015, Ranjeet Singh told the informant that his son left his house. The informant tried to contact his son from different mobile numbers but those were found switched off. Thereafter, some persons informed on the mobile phone that his son, Kaushal Kishore Singh got injured in an accident. It has been further alleged that when the informant consulted on the said mobile No. xxxxx5020, then some unknown person



received the phone and informed that his son is in their custody and directed the informant to come with money and also warned of dire consequences if anyone is informed. This led to lodging of the aforesaid F.I.R.

4. The petitioner who is in custody since 14.12.2015 (para-9 of the petition) having come in the police net preferred the first bail application in the year 2017 vide **Cr. Misc. No. 25619 of 2017** which was rejected on 17.7.2017. Aggrieved, the petitioner moved before the Supreme Court of India in **SLP (Cr.) no. 7242 of 2017** which was dismissed on 19.1.2018.

5. Another round of bail application was preferred before the Patna High Court in **Cr. Misc. no. 69037 of 2018** and on 20.12.2018, it was once again rejected by the same bench. Third time, **Cr. Misc. no. 20755 of 2020** was filed which was rejected on 12.10.2020 by another Bench of High Court.

6. In the fourth attempt, the matter came before this Court in Cr. Misc. No. 59927 of 2021 and considering the allegation, it was rejected on 5.5.2022. However, while rejecting the bail petition, taking into account the fact that the petitioner is/was in custody since the year 2015, the Trial Court was directed to conclude the trial within a particular time frame.

7. One year later, the present petition has been



preferred.

8. Learned counsel for the petitioner submits that he has already remained in custody for more than eight years and despite he being in custody, the trial was not concluded.

9. Learned APP, Mr. Jitendra Kumar Singh submits that his role had come in the course of investigation and as such opposes the bail.

10. Considering the fact that the petitioner is in custody for more than eight years, a report was sought from the Trial Court vide an order dated 25.8.2023.

11. Subsequently, the letter no. 96 dated 15.9.2023 sent by the office of court of learned ADJ-XIII was received which read as follows:

Letter No. 96 Date 15.09.2023

*From: Sulekha Jha
ADJ XXIII
Patna*

To,

*The Assistant Registrar,
Hon'ble High Court of Judicature at Patna
Dated: Patna, on the 15th day of September, 2023*

*Subject: Report called for with reference to Criminal
Miscellaneous No. 49299 of 2023*

Sir,



With due respect, with reference to the order dtd. 25.08.2023 passed in Criminal Miscellaneous No. 49299 of 2023 a report is called for regarding the stage of the Session Trial No. 350 of 2012 arising out of Patrakar Nagar P.S. Case No. 335 of 2015, I have to submit that:

The record is pending at the stage of prosecution evidence. In this case charge was framed and explained on 21.06.19 under section 364(A)/34, 120B and 201 of IPC. Then after five Prosecution witnesses have been examined, cross examined and discharged and one witness is yet to be examined. Warrant has been issued against remaining witness. The next date fixed in the case is 27.09.23.

Further I have to submit that I have joined this court on 04.06.2023 on transfer and I will try my level best to conclude the trial within three months. This is for kind perusal to the Hon'ble court.

Your's faithfully

Sulekha Jha

A.D.J. XXIII

Dated: 15.09.2023

12. The matter was taken up on 12.1.2024 and considering the fact that the report was of the September, 2023 and time of three months asked for had already lapsed, another



report was sought for.

13. Vide letter no. 44 dated 9.1.2024, the Court of Additional Sessions Judge-XIII, Patna sent another report which read as follows:

प्रेषक- राजेश कुमार द्विवेदी,
अपर जिला एवं सत्र न्यायाधीश-XIII,
पटना।

प्रेषित- सहायक निबंधक महोदय,
माननीय उच्च न्यायालय
पटना।

विषय- सत्रवाद संख्या-350/2019 (उत्पन्न पत्रकारनगर थाना कांड संख्या-
335/2015) का अधतन स्थिति के संबंध में।

संदर्भ:- Criminal Misc. No. 49299 of 2023, दिनांक 12.01.2024 का आदेश।

दिनांक 09 फरवरी 2024

महाशय.

उपर्युक्त विषय के संदर्भ में निवेदन पूर्वक कहना है कि सत्रवाद संख्या-350/2019 इस न्यायालय में साक्ष्य हेतु लंबित है। आरोप-पत्र में वर्णित 06 साक्षियों में से 05 का साक्ष्य दर्ज किया जा चुका है। बाद की अगली निर्धारित तिथि दिनांक 23.02.2024 है।

श्रीमान् को सूचनार्थ प्रेषित।

अपर जिला एवं सत्र न्यायाधीश-XIII,
पटना।

14. A bare perusal of the report dated 15.9.2023 and 9.1.2024 would show the learned Judges reported that five



prosecution witnesses were examined, crossed examined and discharged and for one witness, who was to be examined, the case remained pending. Thus, in practical the trial was standstill since 15.9.2023 when the first report was sent.

15. Further, the second report dated 9.1.2024 sent by the Additional Sessions Judge-XIII, Patna is cryptic inasmuch as nothing has been recorded as to what steps have been taken to get the last witness examined and by what time, the case will be disposed of by the Court concerned.

16. A crime has allegedly been committed and the charges are there amongst other against the petitioner herein and the victim's family has the natural expectation that those behind it is/are punished; equally important is the fact that a person who is in custody for more than eight years, his trial be concluded within a particular time frame.

17. The Trial Court has failed to do so despite the fact that successive Hon'ble the Chief Justices of Patna High Court have requested/directed the Courts within its jurisdiction to see to it that the accused who are in custody for more than five years; their trial are expedited and taken to its logical conclusion.

18. Considering the fact that the last cryptic letter



dated 9.1.2024 do not clarify on the steps that has been taken to examine the last witness as also the time frame within which the trial is expected to conclude and thus there is no sight of the conclusion of the trial; solely on this ground taking into account that the petitioner has remained in custody for more than eight years, this Court is of the opinion that he deserves bail with conditions.

19. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned ADJ-XXIII in connection with Sessions Trial No. 350 of 2012 arising out of Patrakar Nagar P.S. Case No. 335 of 2015 subject to the following conditions:

(i) both the bailor should be the family members (one of whom should be his wife) of the petitioner who shall provide official documents to show their bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for even for a single date without any 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 fortnight till the conclusion of the trial to



mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses 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.

20. Having passed the order, this Court deems it fit and proper to direct all the learned Sessions Judge posted in the Districts within the State of Bihar to see to it that those accused who are in custody for more than five years; their cases are taken up on priority basis, expedited and taken to its logical conclusion within a particular particular time frame.

21. Let the office takes step and communicate the order to all the learned Sessions Judges in the State of Bihar to be circulated amongst the Judicial Officers posted in that District.

22. The bail application is allowed with the aforesaid observation.

(Rajiv Roy, J)

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