

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48589 of 2024

Arising Out of PS. Case No.-459 Year-2021 Thana- ARA NAGAR District- Bhojpur

Chotu Mishra @ Chandan Mishra, Son of Jay Prakash Mishra, R/O Vill.-
Anand nagar, P.S.- Ara Town, Dist.- Bhojpur at Ara

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate

For the Opposite Party/s : Mr. Arvind Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 11-09-2024 Heard Mr. N.K. Agarwal, learned Senior Advocate

appearing on behalf of the petitioner and the learned Additional

Public Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with Ara Nagar P.S. Case No. 459 of 2021 corresponding to Sessions Trial No. 208 of 2022 registered for the offence punishable under Sections 302, 120(B) and 34 of the Indian Penal Code.

3. This is the second attempt made on behalf of the petitioner as earlier, the prayer for bail of the petitioner was negated by learned co-ordinate Bench of this Court in Cr. Misc. No. 30553 of 2022, dated 07.11.2023.

4. Learned Advocate appearing on behalf of the petitioner submitted that he is conscious of the fact that earlier



the prayer for bail has been rejected on the merit and, as such, he is not reiterating his earlier submissions. However, this fact cannot be ignored that there is omnibus nature of allegation of firing against three persons and it is very difficult to assess that whose bullet hit on the deceased, though there is multiple injury found over the body of the deceased. It is next contended that the presence of the informant at the place of occurrence is also doubted, moreover the FIR has been instituted in the premise of enmity. Be that as it may, now the petitioner has been incarcerated for over a period of three years and earlier while negating the prayer of the petitioner, liberty was granted to renew his prayer for bail, if the trial is not concluded within six months. A categorical averment has been made that the charges have already been framed on 15.04.2024, but, till date not even a single witness has been examined.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the petitioner is one of the person who caused fatal injury to the deceased alongwith others. Apart from the aforesaid fact, the petitioner bears nine criminal antecedent and appears to be a habitual criminal.

6. Regard being had to the submissions made on



behalf of the parties and considering the period of custody and the fact that there is no likelihood of conclusion of the trial in near future, in as much as, till date not even a single witness has been examined, however, taking note of the criminal antecedent while granting bail to the petitioner, this Court clearly direct that the petitioner shall ensure his presence on first week of every month before the Ara Town police station till the disposal of the trial, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Bhojpur at Ara in connection with Ara Town P.S. Case No. 459 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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