

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46706 of 2024

Arising Out of PS. Case No.-61 Year-2008 Thana- SHERGHATI District- Gaya

Binay Paswan @ Vinay Paswan Son Of Late Rakshya Singh @ Rakshya
Paswan @ Racha Paswan Village- Jaipur, Po- Bishunpura Via - Cherki, Ps-
Sheghati, Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shahbaj Alam, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 26-10-2024 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with S. Tr.
No. 580 of 2023/303 of 2011 arising out of Sherghati P.S. Case
No. 61 of 2008 instituted for the offence under Section 395 of
the Indian Penal Code.

3. The prosecution case as per FIR is that on
02-03-2008, at about 11:30 P.M, 10-12 unknown miscreants
including one 'Kamlesh' allegedly entered into the house of the
informant and looted ornaments from the family members of the
informant along with other articles and cash of Rs. 5,000/-.

4. It has been submitted on behalf of the petitioner
that the petitioner is in custody since 03-09-2021. Petitioner



bears fourteen criminal antecedents, as per disclosure made in paragraph No. 3 of the bail application.

5. Learned counsel for the petitioner submits that the present one is the case of misuse of privilege of grant of regular bail. It is submitted that bail was granted to the petitioner on 03-02-2010. The petitioner was all along on bail in connection with the present case but due to default, his bail bond was cancelled on 13-01-2014. Subsequently, petitioner moved for regular bail, which was rejected *vide* order dated 13-03-2023, passed in Cr. Misc. No. 29374 of 2022. Learned counsel for the petitioner submits that present one is the second attempt for grant of regular bail. It is submitted that petitioner is not named in the FIR and his name sprang up on the confessional statement of co-accused 'Kamlesh'. Learned counsel contends that there is no likelihood of trial being concluded in the near future. Learned counsel further submitted that petitioner undertakes to abide by any conditions imposed by this Court, if released on bail.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. It is submitted that bail bonds of the petitioner was cancelled on 13-01-2014 and Non Bailable Warrant was issued against him.



The processes under Sections 82 and 83 of Cr.P.C. also issued against him. The petitioner did not appear before the Trial Court due to which the trial got hampered.

7. A report with respect to stage of trial, number of witnesses to be examined and expected duration that will take to conclude trial was called for. A report dated 07-08-2024 has been received and in which it is stated that out of eight charge sheet witnesses, no one turned up for their evidence, despite issuance of bailable warrant dated 13-06-2024 and non-bailable warrant dated 02-07-2024 and it is next stated that if witnesses would be produced on time, trial may be concluded within a period of six months.

8. Considering the aforesaid facts and circumstances of the case and taking into account the fact that there is no likelihood of the trial being concluded in the near future as also the undertaking given by the petitioner, this Court is inclined to grant bail to the petitioner.

9. Let the petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with S. Tr. No. 580 of 2023/303 of 2011 arising out of Sherghati P.S. Case



No. 61 of 2008, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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