

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52287 of 2024

Arising Out of PS. Case No.-142 Year-2022 Thana- MAIRWAN District- Siwan

Birendra Dubey Son of Late Sitaram Dubey R/o Village - Seni Chappra, P.S. -
Mairwa, District - Siwan, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Jitesh Singh, Advocate
	:	Mr.Amit Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-09-2024 Heard Mr.Jitesh Singh, learned counsel for the
petitioner, learned counsel for the informant and Mr.Sunil
Kumar Pandey, learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
08.04.2022 in connection with S.Tr.No.649 of 2022 arising out
of Mairwa P.S. Case No. 142 of 2022, FIR dated 07.04.2022
registered for the offence under Sections 341, 323, 324, 307,
302, 120(B), 448, 504 and 34 of the Indian Penal Code and
Section 27 of the Arms Act.

3. Earlier the prayer for bail of the petitioner was
twice rejected vide order dated 02.05.2023 passed in
Cr.Misc.Nos.71371 of 2022.

4. Learned counsel appearing for the petitioner



submits that although there is allegation against the petitioner alongwith other co-accused persons that they fired upon the victim and other co-accused persons also assaulted by other weapons. Learned counsel for the petitioner submits that although there is specific allegation against the petitioner in the FIR but the trial is not in progress and the petitioner is in custody since 08.04.2022.

5. In view of the submission of learned counsel for the petitioner a report was called for with regard to the present status of the trial vide order dated 28.08.2024. Report of the learned Trial Court dated 30.08.2024 reveals that the charge has been framed on 19.08.2023 and only one witness, namely, Vijay Kumar Dwivedi has been examined and finally discharged. Although P.W.2, namely, Ashok Pandey examined in chief on 16.05.2024 and deferred on request on prosecution but till date he has not been finally examined by the learned Trial Court and out of 11 chargesheet witnesses only one witness has been fully examined by the learned Trial Court.

6. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court that there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 08.04.2022 more than two years.



7. Learned APP for the State has opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner and apart from that, the petitioner carries one more case other than the present one but he fairly submits that the petitioner is on bail in the said case, as mentioned in para-3 of the bail petition.

8. Considering the aforesaid fact, report of the learned Trial Court, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-IX, Siwan in connection with S.Tr.No.649 of 2022 arising out of Mairwa P.S. Case No. 142 of 2022, with the following conditions:-

(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(III) 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 step 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.

(Rajesh Kumar Verma, J)

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