

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47687 of 2023

Arising Out of PS. Case No.-124 Year-2019 Thana- PHULWARIA District- Begusarai

Manoj Kumar @ Manti @ Monti @ Manoj Kumar Manti, Son of Late
Rajendra Singh, Resident of Village Fulwaria-03 Police Station- Fulwariya,
District- Begusarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 25-10-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner in the present case is seeking regular bail in connection with Sessions Trial No. 543 of 2021 arising out of Fulwaria P.S. Case No. 124 of 2019 registered for the offences punishable under Sections 341, 307, 302 and 504/34 of the Indian Penal Code. He is in custody since 08.11.2019. The petitioner has got one criminal antecedent.

3. This is the third attempt of the petitioner to obtain bail. Earlier, he had moved this Court seeking regular bail in Criminal Miscellaneous No. 42626 of 2021 which was dismissed vide order dated 27.10.2021.

4. The petitioner is the main assailant of the deceased and it would appear from the materials on the record that the petitioner had taken out his pistol and shot at the deceased which



resulted in the death of the victim.

5. It further appears that his own brother, namely, Saroj Singh @ Ghanti is an accused in this case but he is still absconding. The learned trial court waited for his appearance for about three years and thereafter, his records were separated. When the records of this petitioner and other accused were committed to the Court of Session for trial and the case was fixed for framing of charge, one after another, the co-accused filed application for discharge. After rejection of one of the applications, they filed application for adjournment in the name of filing of an application against the said order in the High Court. Thereafter, the two accused who were facing trial with the petitioner absconded, their bail bonds were cancelled. Learned counsel for the petitioner submits that after some time, they were arrested. So far as this petitioner is concerned, he has earlier surrendered on his own.

6. This Court had called for a report from the learned trial court and from the report, it appears that now one of the co-accused has filed an application seeking his discharge. The learned trial court has informed that because of these reasons, the charges could not be framed.

7. While it is true that the petitioner is in custody for about five years in connection with this case but a question would arise as to whether mere custody of the petitioner would make him



entitle for his release on bail even as the allegations against him are serious and the punishment attached to the offence is severe in nature.

8. In the opinion of this Court, while taking into consideration the period of custody, the Court is also required to look into the circumstances under which the trial has not been concluded. If the reasons mentioned in the report of the learned trial court are gone into, it may be easily found that the delay has occurred because of non-cooperation by the accused persons including the brother of the petitioner who is still absconding. The petitioner has also a criminal antecedent of an offence under Section 307 IPC and it is not clearly stated in paragraph '3' of the application as to whether the petitioner is on bail in the case of the year 2014. The cumulative impact of these reasons would be that this Court is not inclined to grant bail to the petitioner at this stage.

9. The learned trial court is expected to proceed with the matter as early as possible and frame the charges without granting any adjournment to the accused.

10. This application stands dismissed.

(Rajeev Ranjan Prasad, J)

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