

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57001 of 2023

Arising Out of PS. Case No.-90 Year-2017 Thana- PANDARAK District- Patna

HEMANT RAI @ HEMANSH RAI SON OF LATE RAJ KUMAR RAI
RESIDENT OF VILLAGE- CHAMTHA GOP TOLA, PS- BACHHWARA,
DIST- BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 02-02-2024 Heard the parties.

2. The petitioner is in judicial custody in connection with Pandarak P.S. Case No. 90 of 2017 registered under Sections 147, 148, 149, 364, 302 and 201 of the Indian Penal Code lodged on 13.11.2017 by the informant, B. Yadav.

3. The petitioner has earlier moved this Court in Cr. Misc. No. 27648 of 2022 which was rejected on 01.09.2022.

4. A fresh bail petition has now been filed in which a report was called for on 25.08.2023 from the concerned Court regarding the stage of the Trial.

5. Four months later, on 08.12.2023, the office presented the case after incorporating in the office notes dated 07.12.2023 that despite the communication sent, the report has not been received.

6. Accordingly, on 08.12.2023 both the report as well as show cause were sought for from the learned Trial Court.



7. Vide letter no. 197 dated 13.12.2023 learned ACJM-I, Civil Court, Barh, Patna has submitted a report in which he has enclosed office letter no. 166 dated 15.09.2023 by which earlier he had sent the report which was also received in the office of the Assistant Registrar of Patna High Court on 19.09.2023. The annexure to the report shows that it was duly received and acknowledged.

8. It is clear that the Office of Patna High Court was at fault and despite the receipt of the report on 19.09.2023, the file was not presented before the Court for three long months and finally on 07.12.2023, the same was presented with a comment that the report has not been received.

9. It is a serious matter and the Registry to enquire into it and take necessary action.

10. The allegation in the FIR, which was lodged on 13.11.2017 is that the informant's son had gone to 'Diyara' for feeding the cattle where it is alleged that at 11.30 AM, 10-12 accused persons came, armed variously which included the petitioner herein and took the boy away. On objection, it is alleged that this petitioner assaulted by butt of gun. As the informant had no knowledge of the whereabouts of his son, the FIR has been lodged.



11. As per the report submitted by the Trial Court, the case has been committed to the Sessions Court on 25.07.2023 and thereafter, it is being conducted in the Court of learned ADJ-II vide Sessions Trial No. 1101/2023.

12. Learned counsel for the petitioner submits that he has already suffered by being in custody since 11.03.2022, as stated in paragraph-11 of the petition and though he has number of cases under his belt, he undertakes not to misuse the privilege of bail and will be diligently appearing in trial on each and every date.

13. Learned APP opposes the prayer for stating that he has criminal antecedent and the allegation has also been attributed against him.

14. Taking into account the period of custody as also the fact that the trial is not likely to be concluded in the near future and the petitioner undertakes to cooperate in the trial, this Court is inclined to grant him privilege of bail.

15. Let the petitioner be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM-1st Barh, Patna in connection with Pandarak P.S. Case No. 90/2017 subject to the following conditions:



(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month till the conclusion of Trial to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his 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 the bail bonds.

(Rajiv Roy, J)

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