

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60685 of 2024

Arising Out of PS. Case No.-311 Year-2019 Thana- MAHARAJGANJ District- Siwan

Ashwani Kumar, S/o- Shri Devanand Prasad, Village- Purani Bazar, PS-
Maharajganj Distt- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Udai Shankar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-09-2024 Heard learned counsel for the petitioner and Mr. Arun
Kumar Pandey, learned APP for the State.

2. This is the third attempt of the petitioner to obtain regular bail in connection with Session Trial No.37 of 2021 arising out of Maharajganj P.S. Case No.311 of 2019 registered for the offences punishable under Sections 302/120(B)/34 of the Indian Penal Code. He is in custody since 13.12.2019. The petitioner has got one criminal antecedent in which he has been acquitted as stated in paragraph ‘3’ of the application.

3. Earlier the prayer for bail of the petitioner was rejected by this Court for the first time vide order dated 29.07.2021 passed in Cr.Misc.No.5548 of 2021. This Court while rejecting the prayer for bail observed that “Let the trial be expedited”.

4. In the second attempt vide Cr.Misc.No.58740 of 2022, this Court was informed that the trial has begun and one witness has been examined. The Court was also informed that in the another case which was registered for recovery of fire-arms being Maharajganj P.S. Case No.310 of 2019, the prosecution failed to adduce any evidence as a result whereof the petitioner had been acquitted.

5. Taking note of the aforementioned submissions, though this Court refused to grant bail to the petitioner even in the second attempt but observed that the prosecution of the petitioner must be concluded within a period of six months as was stated in the report of the learned court below. The petitioner was granted liberty to apply for regular bail in the learned trial court if the trial is not concluded within a reasonable period.

6. It appears that the petitioner applied for bail in the learned trial court which has been rejected vide order dated 05.06.2024. The only material which has been noted afresh in the order of the learned trial court is that at present three witnesses have been examined.

7. Learned counsel for the petitioner submits that the petitioner has already remained in incarceration for four years

nine months and there are altogether seven charge-sheet witnesses, therefore, even half of the charge-sheet witnesses have not been examined and despite observations of this Court the prosecution has not shown any interest in conclusion of the trial. The fundamental right of the petitioner in getting speedy justice and trial is being violated.

8. Learned APP for the State has though opposed the prayer for regular bail of the petitioner, taking note of the fact that the petitioner has been acquitted in a case under the Arms Act which was connected with the present occurrence and in the present case he has already remained in incarceration for four years nine months but the trial is not being concluded, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-IXth, Siwan in connection with Session Trial No.37 of 2021 arising out of Maharajganj P.S. Case No.311 of 2019, subject to the conditions as laid down under Section 437(3) Cr.P.C.

9. 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.

10. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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