

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79709 of 2023

Arising Out of PS. Case No.-352 Year-2018 Thana- MUNGER MUFFASIL District- Munger

1. Md. Rizwan @ Bhutto @ Md. Bhutto, Son of Md Ejajul Rahman, R/O Village- Mirjapur, Bardah, P.S.- Muffasil, District- Munger.
2. Md. Gulfam @ Gulfan @ Md. Gulam, Son of Md. Ejajul Rahman, R/o Village- Mirjapur, Bardah, P.S.- Muffasil, District- Munger.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Chaudhary, Sr. Advocate
Mr.Raj Kumar Choudhary, Advocate
For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

10 23-08-2024 1. Heard learned counsel appearing on behalf of
the parties.

2. It is submitted by Mr. Ashok Kumar Chaudhary, learned senior counsel appearing on behalf of the petitioners that while rejecting the prayer of bail of petitioners on earlier occasion by one of the learned coordinate Bench of this Court, through Cr. Misc. No. 63679 of 2019 dated 06.07.2020 a liberty was granted to renew the prayer of bail, if trial not complete within nine months from the date of framing of charge.



3. Considering the submissions, on last occasion a report was called for regarding stage of trial, whereupon a report was made available to this Court through letter no. 47 dated 02.08.2024 of learned trial court, where it is stated that charge in this case was framed on 04.09.2023, and till now only one witness examined in this case. It is submitted by Mr. Chaudhary that petitioner no. 1, namely, Md. Rizwan @ Bhutto @ Md. Bhutto is in custody since 13.09.2019 i.e. more than five years and six months, whereas, petitioner no. 2 namely, Md. Gulfam @ Gulfan @ Md. Gulam is in custody since 29.09.2018 i.e. about six years. It is submitted that petitioners cannot be kept behind the bar for indefinite period of time in want of trial, by defying his constitutional right as available under Article 21 of the Constitution of India. In support of his submission, learned senior counsel referred the report of Hon'ble Supreme Court as reported in the matter ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another,***



2024 SCC OnLine SC 1693.

4. Learned APP while opposing the prayer of bail submitted that considering the merit, the prayer of bail of both petitioners already rejected by this Court, however, he could not disputed period of custody and stage of trial, as mentioned above.

5. In view of aforesaid fact, as both above-named petitioners remains in custody for more than five years, where charge was framed on 04.09.2023 and thereafter, only one prosecution witness was examined in this case, having sufficient indication that trial is not likely to conclude in near future, accordingly, both above named petitioners are directed to be released on bail in connection with Muffasil P.S. Case No. 352 of 2018, G.R. No. 2997/2018 (S.T. No. 214/2021) on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge-II, Munger/concerned Court, subject to the conditions as



mentioned under Section 437(3) of the Cr.P.C., with further condition that:

(i) Accused/Petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the petitioners duly supported by medical document.

(Chandra Shekhar Jha, J)

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