

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71472 of 2023

Arising Out of PS. Case No.-590 Year-2019 Thana- MANER District- Patna

HIMANSHU RAI @ HIMANSHU KUMAR S/O LATE MODI RAI R/O
VILLAGE- CHHITNAWAN (CHHOTA CHAKIYA) P.S- MANER, DISTT.-
PATNA.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Kamlesh Prasad Yadav
For the Opposite Party/s	:	Mr. Madhura Nand Jha, APP
For the Informant	:	Mr. Rajesh Kr. Sinha

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

11 26-07-2024 Heard learned counsel for the petitioner, Mr.

Rajesh Kr. Sinha learned counsel for the Informant and

learned APP for the State.

2. The petitioner seeks bail in connection with

Maner P.S. Case No. 590 of 2019 registered for the

offence under Sections 147, 148, 149, 387, 307, 302,

504, 506 of the I.P.C. and Section 27 of the Arms Act.

3. The petitioner is named in the F.I.R. and is

in custody since 04.01.2022 i.e., about 2 years and 7

months where this matter is still running at the stage of

appearance before the Id. trial court. It is further



submitted that while rejecting the prayer of bail of this petitioner through Cr. Misc No. 45462 of 2022 vide order dated 13.12.2022 a direction was given to the Id. trial court to conclude the trial within 9 months but same was not complied with.

4. It is submitted that conclusion of trial in this case is a remote aspect as even charge could not frame in this matter and certainly in want of trial the petitioner cannot be kept behind bar for indefinite period, which otherwise amounting violation of his Fundamental Rights as available under Article 21 of the Constitution of India, for the reason that speedy trial falls under the perview of Fundamental Rights as per the legal ratio settled through ***Hussainara Khatoon and Ors. vs. Home Secretary, State of Bihar*** as reported in ***(1980) 1 SCC 81: 1980 SCC (Cri) 23.***

5. Learned APP duly assisted by learned counsel for the Informant while opposing the prayer of bail submitted that it is due to non-cooperation of the



petitioner and other co-accused persons charges could not framed in this matter.

6. Taking note of aforesaid submission it is submitted by learned counsel for the petitioner that the petitioner is not on fault and if there is any non-cooperation that is on the part of other co-accused persons for that petitioner cannot be held liable. It is submitted that the petitioner is ready to remain present on each and every date of hearing before the trial court. Learned counsel further submitted that petitioner has no objection if his trial may be separated from the rest of the accused persons, if they are not co-operating.

7. Considering the aforesaid, as the petitioner remains in custody for more than two year and seven month where even charge could not framed by Id. trial court, accordingly, the petitioner, above named, is directed to be released on bail in connection with Maner P.S. Case No. 590 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of



the like amount each to the satisfaction of learned
Additional Sessions Judge V, Danapur/concerned court,
subject to the conditions as mentioned under Section
437(3) of the Cr.P.C. subject to following conditions:-

- “(i) That petitioner 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 Trial Court, only on medical ground of the petitioner, duly supported by the documents.
- (ii)The petitioner shall not influence any witness or make any attempt to tamper evidence, failing which the State shall be at liberty to press before the Id. trial court itself for the cancellation of the bail bond of the petitioner.”

(Chandra Shekhar Jha, J)

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