

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75802 of 2024

Arising Out of PS. Case No.-176 Year-2018 Thana- GARDANIBAG District- Patna

Dinesh Yadav @ Dinesh Kumar S/o- Late Chandrika Rai Mohalla-
Balamichak Police Station- Phulwarisharif District-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Shahrukh Alam, Advocate Mr. Shantanu, Advocate Mr. Rashid Zafar, Advocate
For the Opposite Party/s :		Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 29-11-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

02. In the present case, the petitioner seeks bail in connection with Sessions Trial No. 624 of 2018, arising out of Gardanibagh P.S. Case No. 176 of 2018, dated 12.05.2018, registered for the alleged offences under Sections 302, 120B, 307, 34 of the Indian Penal Code and Section 27 of the Arms Act.

03. As per prosecution case, the petitioner and other co-accused persons fired upon the cousin and other relatives of the informant and the cousin of the informant died and two other persons suffered injuries.

04. The learned counsel for the petitioner submits that



this is the third attempt of the petitioner to seek bail from this Court as his prayer for bail was twice rejected vide orders dated 19.07.2019 and 22.03.2023 passed in Cr. Misc. Nos.12446 of 2019 and 2103 of 2023, respectively. Learned counsel for the petitioner submits that, from the facts of the case, it is apparent that the allegation of firing is against altogether six persons from the window of a car. It is not believable that such firing could have taken place in the manner as stated in the FIR. The postmortem report shows two injuries and only one injury is stated to be firearm injury and no opinion has been given regarding the second injury. Learned counsel further submits that though the informant has deposed as PW-9 and has stated about involvement of this petitioner but his testimony is not reliable since he has made several improvement. He has introduced one person, namely Vicky Kumar, who has subsequently been examined as PW-10, who has initially been not named in the FIR as the person who was also present at the place of occurrence. Learned counsel further submits that even the statement of injured-Rajan Kumar, who was being treated in Aman Hospital, does not inspire confidence since admittedly he was being treated and stated about seeing the petitioner running from the spot but the same is not believable as other witnesses



have stated that the accused persons fled away in the car and it is also not believable that while he was being treated he has occasion to venture outside and see the petitioner running away from the spot when incriminate firing was going on. The learned counsel further submits that on the same set of facts, trial of two persons, namely Vikas and Bhola is going on which is totally unconnected to the facts of the petitioner's case and they are also facing trial for the murder of the same person in Session Trial No. 814 of 2021 before the learned Additional Sessions Judge-XI, Patna. Learned counsel further submits that all the accused persons named in case have been granted anticipatory/regular bail by this Court or the Co-ordinate Benches of this Court or by Supreme Court. Learned counsel further submits that the petitioner is in custody since 23.05.2018 and after framing of charges, ten witnesses have been examined. One witness has been absconding since he is already a chargesheeted person and 09 more witnesses are yet to be examined and there is no likelihood of early conclusion of the trial and the petitioner may deserve to be let out on bail. The petitioner is having clean antecedent.

Learned counsel for the petitioner by placing the decision of Hon'ble Supreme Court in the case of *Sanjay*



Chandra vs. CBI, reported in *(2012) 1 SCC 40*, submits that the right to speedy trial and justice has been recognized as a fundamental right by the Hon'ble Supreme Court. Reliance has also been placed on the decision of Hon'ble Supreme Court in the case of *Kerala v. Raneef*, reported in *(2011) 1 SCC 784* wherein it has been held that in deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody.

05. Learned A.P.P. opposes the submission made on behalf of the petitioner. The learned APP submits that the prayer for bail of the petitioner was rejected twice earlier and trial is at the fag end and the petitioner is one of the assailants in which a person lost his life and two persons suffered grievous injuries.

06. Perused the records.

07. Having regard to the facts and circumstances of the case and submissions made here-in-above and considering the period of custody of the petitioner and likelihood of delay in conclusion of the trial and further considering the grant of bail to other similarly placed co-accused persons, the petitioner



above named, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-X, Patna/court concerned in connection with Sessions Trial No. 624 of 2018, arising out of Gardanibagh P.S. Case No.176 of 2018, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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