

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76812 of 2023

Arising Out of PS. Case No.-130 Year-2020 Thana- SURYAPURA District- Rohtas

Anil Singh @ Anil Kumar Singh son of Late Hare Ram Singh @ Late Ram
Dayal Singh Village- Agrer Kala Tola P.S.- Suryapura Dist- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate Ms. Alka Singh, Advocate Mr. Kumar avinash, Advocate
For the Opposite Party/s	:	Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 12-01-2024 Heard Mr. Sumeet Kumar Singh, learned counsel
appearing on behalf of the petitioner and the learned APP for the
State.

2. This is the second attempt made on behalf of the
petitioner, for grant of bail, in connection with Sessions Trial
No. 234 of 2021, arising out of Surajpura P.S. Case No. 130 of
2020, registered for the offence punishable under Sections 147,
148, 149, 341, 323, 302, 307, 504 and 506 of the Indian Penal
Code and Section 27 of the Arms Act.

3. Earlier, the prayer for bail of the petitioner was
negatived by this Court vide order dated 29.06.2022 in Cr. Misc.
No. 37540 of 2021, taking into consideration the specific nature
of accusation against the petitioner that he fired from his double



barrel gun upon the father of the informant, causing his death. However, while rejecting the prayer for bail of the petitioner, this Court has observed that the learned trial Court will take all necessary steps to ensure the conclusion of the trial at the earliest.

4. It is submitted on behalf of the petitioner that though earlier, the prayer for bail of the petitioner was rejected on merit, after taking into consideration the specific nature of accusation, however, during the course of trial, certain subsequent development has taken place and on the strength of that development, he is renewing his prayer for bail, apart from the long period of incarceration. He further submitted that in course of trial, the informant as well as injured witness were examined but they failed to identify the petitioner or any other assailant and finally they have been declared hostile. The copies of their depositions have been brought on record by way of Annexures P/5 and P/5-A.

5. He next submitted that apart from the fact, the informant and injured witness turned to be hostile, it is also the fact that neither the double barrel gun, which is said to have been used, is recovered, nor there is a ballistic report of double barrel gun on record. He also submits that apart from the



aforesaid facts, for the sake of repetition, he would submit that there is a case and counter case and still out of eleven witnesses, only eight witnesses have been examined and there is unlikelihood of conclusion of trial, in near future, though the petitioner has been incarcerated since 15.09.2020. All the more, despite the observation made by this Court vide order dated 29.06.2022, more than one and a half years has been gone out, but, till date, the trial has not been concluded.

6. On the other hand, learned APP for the State vehemently opposes the bail application and submits that though the informant and one of the witnesses have been declared hostile, but, at the same time, other witnesses also supported the prosecution case and there is specific allegation against the petitioner of causing fatal firearm injury to the father of the informant. He next submitted that now altogether eight witnesses have been examined and the trial is likely to be concluded in near future.

7. Well settled it is that while granting bail, the Court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of punishment in case of conviction, the character, behaviour, means, antecedent and standing of the accused, reasonable possibility of his fleeing



from the law, reasonable apprehension of the witness being tempered with the larger interest of the public or state and similar other conditions.

8. However, irrespective of all the factor, it is the cardinal rule of criminal jurisprudence that a person is presumed to be innocent, until held guilty, so it would be in the interest of justice that personal liberty as envisaged under Article 21 of the Constitution should not be curtailed for an indefinite period, before the charge against him is proved lawfully. It is true that if an accused is convicted on account of the charge being proved, he would have to suffer the punishment or incarceration for the period of sentence, but in case, he would be acquitted from the charges, there is no means and measure to compensate him.

9. In the aforesaid settled premise of law, considering the facts of the present case, it is manifest that though the prayer for bail of the petitioner was rejected, earlier on merit, but this is also the fact that the petitioner has been incarcerated since 15.09.2020 and till date, out of 11 prosecution witnesses, only 8 have been examined, the informant and one injured witness also turned hostile, and there is no likelihood of conclusion of trial in near future, as it has been informed to this Court that the witnesses, who have already been discharged, now for their re-



examination, applications have been filed for their recall, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 50,000/- (Rupees fifty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge – V, Rohtas at Sasaram in connection with Sessions Trial No. 234 of 2021, arising out of Surajpura P.S. Case No. 130 of 2020, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of any absence, on a single date, without any prior intimation and permission of the learned trial Court, would lead to cancellation of his bail bonds.

(Harish Kumar, J)

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