

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75866 of 2024

Arising Out of PS. Case No.-52 Year-2015 Thana- MOKAMAH District- Patna

Sunil Yadav S/O Late Singheshwar Yadav R/O Village - Kanhaipur, P.S-
Mokama , District Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.
Mr. Bhaskar Shankar, Adv.
For the Opposite Party/s : Mr.Md. Shakir Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

2 23-10-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with S. Tr.
No. 622 of 2015 arising out of Mokama P.S. Case No. 52 of
2015 instituted for the offences under Sections 147, 148, 149,
447, 307 of the Indian Penal Code and Section 27 of the Arms
Act.

3. This is the misuse of grant of bail. Learned counsel
for the petitioner submits that the petitioner has earlier moved
before this Court with a prayer for grant of bail in Cr. Misc. No.
54498 of 2015 which was disposed of 09.12.2015, granting bail
to the petitioner.

4. He further submits that out of total six prosecution



witnesses, three prosecution witnesses had already been examined and on 04.01.2016, the Informant of this case was present as P.W.4 but, none of the three accused including the present petitioner were present and, therefore, the bail bond of all the three accused persons including the petitioner was cancelled and N.B.W. was issued against them.

5. Learned counsel for the petitioner further submits that as a matter of fact, the petitioner was arrested in another case. In the meantime, his Pairvikar stopped his Pairvy and N.B.W. was issued against him after cancellation of his bail. It is also clear from the order-sheet itself that the service report of N.B.W. is not received by the Office Clerk till the order dated 11.05.2017. Thereafter, the learned Trial Court, without receiving of service report (Tamila) ordered to initiate process of 82-83 of the Cr.P.C. through ASP and the said order was issued on 18.07.2017. It is further stated that the service report/Tamila of process of 82-83 Cr.P.C. also remained unserved till order dated 11.01.2024.

6. Learned counsel for the petitioner further submits that on 05.07.2024, a petition was filed on behalf of the petitioner for issuance of production warrant in this case from S. Tr. No. 1131 of 2023 arising out of Mokama P.S. Case No.



186/2020 in which the petitioner was languishing in Phulwarisharif jail and, accordingly, the petitioner was produced from jail in this case on 31.07.2024. Learned counsel for the petitioner again submits that the case is still pending for appearance of one more accused and there is no possibility of early conclusion of trial.

7. Learned counsel for the petitioner finally submitted that the petitioner undertakes to abide by any conditions imposed by this Court, if released on bail.

8. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that due to the accused petitioner not pleading, the prosecution witnesses, who were present in the court for evidence, could not be produced and the accused has been made to appear in this case from another case. In this way, due to the absence of the accused petitioner, no evidence could be taken from the record from the year 2016 till date and the accused petitioner has deliberately misused the bail. Therefore the bail application should be rejected.

9. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner



and the undertaking given by the petitioner, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with S. Tr. No. 622 of 2015 arising out of Mokama P.S. Case No. 52 of 2015, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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