

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79320 of 2024

Arising Out of PS. Case No.-307 Year-2020 Thana- SULTANGANJ District- Patna

Aftab @ Aftab Khan @ Md. Aftab Son of Md Badru Miyan Resident
Of Mohalla- Mandai, PS- Sultanganj, Distt.- Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mrs.Rashmi Jha, Advocate Mr.Harsh Vardhan, Advocate
For the Opposite Party/s :		Mr.Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 13-12-2024 Heard Mrs. Rashmi Jha, learned counsel appearing on
behalf of the petitioner and learned A.P.P. for the State.

2. Petitioner seeks bail in connection with G.R. No.
4763/2020 arising out of Sultanganj P.S. Case No. 307 of 2020
registered for the offences under Sections 147, 148, 149, 341,
386 and 302 of the Indian Penal Code and Section 27 of the
Arms Act.

3. The petitioner is named in the First Information
Report and is in custody since 22.08.2022.

4. Allegation against the petitioner is to demand
extortion money and committed murder of brother of the
informant.

5. It is submitted by Mrs. Rashmi Jha, learned counsel
appearing on behalf of the petitioner that this is the third



attempt of bail as pressed by this petitioner for the simple reason that even after passing of more than two years, no charge could be framed by the learned trial court, making conclusion of trial a remote event.

6. It is pointed out that in want of trial the petitioner cannot be kept behind bar for indefinite period, which otherwise amounting to violation of his Fundamental Rights as available under Article 21 of the Constitution of India, for the reason that speedy trial falls under the purview of Fundamental Right as per the legal ratio settled through **Hussainara Khatoon and Ors. vs. Home Secretary, State of Bihar** as reported in **(1980) 1 SCC 81**.

7. This court cannot be unmindful regarding custody period and also regarding non-progress of trial before learned trial court.

8. Learned A.P.P. for the State has opposed the prayer for bail of the petitioner, but could not disputed the aforesaid submission as advanced by learned counsel of the petitioner.

9. Considering the facts and circumstances as mentioned above, without making any comment to merit, as learned trial court failed to frame even charge against



petitioner, after keeping petitioner in custody for more than two years and two months, petitioner above-named is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Patna City, Patna/concerned court, in connection with G.R. No. 4763/2020 arising out of Sultanganj P.S. Case No. 307 of 2020, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nyaya Suraksha Sanhita (in short “B.N.S.S.”), with further condition that:

After framing of charge petitioner shall remain present on each and every date of hearing till conclusion of trial. Any attempt, if made by petitioner to delay the trial, learned trial court shall be at liberty to cancel the bail bond of the petitioner, if pressed by the State.

(Chandra Shekhar Jha, J)

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