

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80607 of 2023

Arising Out of PS. Case No.-117 Year-2019 Thana- SARMERA District- Nalanda

Dhanushdhari Yadav, son of Late Ramashish Yadav, R/o Village- Sarfraj
Nagar Kumbhra, P.S.- Goshwari, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudish Kumar, Adv.

For the Opposite Party/s : Mr. Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

8 03-05-2024

1. Heard learned counsels for the parties.

2. The matter has been placed before this Court for consideration of the petitioner's bail prayer made under Section 439 of Cr.P.C.

3. At the outset, Mr. Sudish Kumar, learned counsel for the petitioner submits that the copy of the depositions of the witnesses, who have been examined till date, has been filed by way of supplementary affidavit and its second copy is available with him which may be perused.

4. Petitioner seeks regular bail in connection with Sarmera P.S. Case No. 117 of 2019 dated 22.07.2019 registered for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.



5. Mr. Sudish Kumar, learned counsel for the petitioner submits that the petitioner earlier filed Cr. Misc. No. 40538 of 2022 for the relief of regular bail which was rejected by this Court vide order dated 16.03.2023 and in that order, the petitioner was given a liberty to renew his bail prayer after six months from the date of that order if any significant progress is not made in his trial in the said period and in the light of the said liberty, the petitioner has again come before this Court for the said relief. Learned counsel further submits that out of 7 prosecution witnesses, 6 have been examined and amongst them, all the material witnesses have been examined and PW-5 (Jitu Kumar), who is said to be the sole eye-witness of the alleged occurrence, has been examined and he deposed in the cross-examination that when he reached near his father (injured), he saw firearm injury on his father's chest and at that time, he was not bleeding and this fact shows that the said witness was not an eye-witness. Learned counsel further submits that the petitioner has completed four years and nine months in jail and most of the witnesses of the prosecution were examined when this Court directed the trial court for speedy trial of the petitioner and still one witness remains to be examined.



6. Mr. Surendra Prasad Singh, learned APP appearing for the State has opposed the bail prayer.

7. Considering the above submissions and mainly taking into account the petitioner’s incarceration period which has been more than four years, and also, the fact that the material witnesses of the prosecution have already been examined, in my opinion, in the said circumstances, the petitioner now deserves to be released on bail. Accordingly, let the petitioner named-above be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Sarmera P.S. Case No. 117 of 2019.

(Shailendra Singh, J)

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