

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34361 of 2024

Arising Out of PS. Case No.-220 Year-2020 Thana- BYPASS District- Patna

Karu Singh @ Anil Singh SON OF LATE SAGAR SINGH @ RAM SAGAR SINGH @ RAMA SAGAR SINGH RESIDENT OF VILLAGE- MARCHI, PS -BYPASS, DIST- PATNA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 81597 of 2023

Arising Out of PS. Case No.-220 Year-2020 Thana- BYPASS District- Patna

1. KARU SINGH @ ANIL SINGH S/O LATE RAM SAGAR SINGH VILLAGE- MARCHI, PS. BYPASS, DIST. PATNA.
2. MITHILESH SINGH @ MITHILESH PRASAD SINGH S/O LATE KALIKA SINGH VILLAGE- MARCHI, PS. BYPASS, DIST. PATNA.

... .. Petitioner/s

Versus

1. State of Bihar BIHAR
2. RAM SEVAK SINGH S/O LATE MOTILAL SINGH VILLAGE- MARCHI, PS. BYPASS, DIST. PATNA.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 34361 of 2024)

For the Petitioner/s : Mr.Pramod Kumar
For the Opposite Party/s : Mr.Binod Kumar
For the Informant : Mr. Baxi S.R.P. Sinha, Sr. Adv
Mr. Ram Naresh Rai

(In CRIMINAL MISCELLANEOUS No. 81597 of 2023)

For the Petitioner/s : Mr.Soni Shrivastava
For the Opposite Party/s : Mr.Shyam Bihari Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 04-10-2024

Re:- Cr. Misc. No. 34361 of 2024.

Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.



2. The petitioner seeks bail in connection with S.Tr. No. 203 of 2021 arising out of Bypass P.S. Case No. 220 of 2020 registered for the offence under Sections 307/34 of the Indian Penal Code and later Section 302 of the Indian Penal Code was also added.

3. As per the prosecution case, the petitioner along with other co-accused is said to have fired upon the victim and during the course of treatment, the victim died.

4. It has been submitted by the learned counsel for the petitioner that the petitioner is innocent and he is in custody since 10.7.2020.

5. Though, the petitioner is in custody since 10.7.2020 but the trial is at the stage of argument.

6. Considering the aforesaid facts, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this application is dismissed.

Re:- Cr. Misc. No. 81597 of 2023.

Heard learned counsel for the petitioners, learned counsel for the informant and learned APP for the State Shri Jharkhandi Upadhyay.

2. This application has been filed on behalf of the petitioners for quashing the order dated 29.09.2023 passed by



the learned Additional Sessions Judge-I, Patna City/concerned Court in Sessions Trial No. 203 of 2021 arising out of Bypass P.S. Case No. 220 of 2020 by which the application of the petitioners filed under Section 311 of the Code of Criminal Procedure read with Section 138 of the Indian Evidence Act for re-examination of DW 1 has been rejected.

3. Learned counsel for the petitioners submit that after the examination and cross-examination of the DW 1 (doctor), the defence has filed an application under Section 311 of the Code of Criminal Procedure read with Section 138 of the Indian Evidence Act for further cross-examination of the doctor for clarification of the statement made by the doctor.

4. Learned counsel for the petitioner further submits that the doctor was examined and cross-examined on 26.06.2023. The application for further cross-examination was filed under Section 311 of the Code of Criminal Procedure read with Section 138 of the Indian Evidence Act on 04.08.2023.

5. Learned counsel for the petitioners has further argued that in law, the clarification is maintainable and she submits that from the reading of the evidence of the doctor, it will appear that the injured witness was not in a position to give any statement but because of some typing error, it has been



recorded in the cross-examination of the doctor that the injured witness was in a position to give his statement.

6. Learned counsel for the petitioners has also submitted that the fact of typing error has been mentioned in the petition and because of the same the present petition has been filed.

7. Learned APP for the State and learned counsel for the informant has vehemently opposed the application of the petitioner.

8. I have considered the submissions of the parties and have also perused the materials available on record.

9. This is a case registered under Section 307/34 of the Indian Penal Code and later Section 302 of the Indian Penal Code was also added. The defence evidence was closed and if there was any typing error, the petitioner was having an opportunity to bring to the notice of the trial Judge on the very next day of the cross-examination i.e. 27.6.2023 or one or two days later thereafter but the present application has been filed after a delay of two months.

10. From the aforesaid facts, to me, it appears to be a delaying tactics as if it would have been a typing mistake, the same could have been brought to the notice of the trial Judge on



the day of recording of the evidence of the doctor or after one or two days thereafter but the same has not been done.

11. Considering the aforesaid facts and also considering the law laid down by the Hon’ble Supreme Court in the case of *Rajesh Talwar and Anr. Vs. CBI* reported in (2014) 1 SCC 628, this kind of delaying tactics cannot be allowed to continue.

12. Accordingly, this application is dismissed.

13. The trial Court is directed to proceed with the case and conclude the trial at the earliest.

14. It is made clear that the observations made in this order are only for the purpose of disposal of this application. The petitioner will have liberty to argue the case on the deposition which is on record and the petitioner shall not be prejudiced by the observations made in this order.

(Sandeep Kumar, J)

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