

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82072 of 2023

Arising Out of PS. Case No.-126 Year-2023 Thana- GHOSI District- Jehanabad

SHISH YADAV @ SHISHYA @ RAMASISH YADAV SON OF LATE RAM
PRASAD YADAV RESIDENT OF VILLAGE- CHIRI, POLICE STATION-
GHOSI, DISTRICT- JEHANABAD

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar

For the Opposite Party/s : Mr.Nirmal Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 01-03-2024 This is the second attempt of the petitioner for grant of regular bail as earlier, the bail application of the petitioner was rejected vide order dated 14.07.2023 passed in Cr. Misc. No. 41455 of 2023 and the following order was passed:-

“Heard the learned counsel for the petitioners and learned APP for the State.

2.Let the defect(s), if any, be removed within a period of four weeks from today.

3. The petitioners seek bail in connection with Ghosi P.S. Case No. 126 of 2023 registered for the offence under Sections 147, 148, 149, 341, 342, 323, 32, 504, 506, 302 and 120 B of the Indian Penal Code and Section 27 of the Arms Act.

4. The petitioners are the assailants of the deceased. All the accused persons have assaulted the deceased with Lathi, Farsa etc. The post-mortem report supports the



allegations levelled against the petitioners.

5. It has been submitted by the learned counsel for the petitioners that the wife of the deceased initially supported the version of the prosecution but subsequently another statement was recorded under Section 161 of the Cr.P.C. in which she was resile from her earlier statement.

6. Learned counsel for the petitioners submitted that all the witnesses are also accused in other cases/case but they are not being arrested by the Police.

7. This Court does not understand as to why and how the Investigating Officer recorded the second statement of the wife of the deceased under Section 161 of the Cr.P.C. when the earlier statement was already recorded.

8. It seems that the I.O. is gained over by the accused persons.

9. Learned A.P.P. has vehemently opposed the prayer for bail.

10. The Superintend of Police, Jehanabad will look into the this and the issues raised by the petitioners. If the witnesses in present case are accused in other cases, they should be dealt in accordance with law and if they have not surrendered and taken bail in which they are accused, the Police will act without taking side.

11. The Superintendent of Police, Jehanabad is directed to examine the records of the case and it will be advisable that he changes the I.O. of the present case.

12. With the aforesaid observation and direction, this application is dismissed.

13. Let a copy of this order be communicated to the Superintendent of Police, Jehanabad through FAX for its compliance forthwith.”



2. Heard learned counsel for the petitioner and learned APP for the State.

3. Affidavit filed on behalf of the Superintendent of Police, Jehanabad is filed by Shri Jharkhandi Upadhyay, learned APP for the State and the same is taken on record.

4. The petitioner seeks bail in connection with Ghosi P.S. Case No. 126 of 2023 registered for the offence under Section 147, 148, 149, 341, 342, 323, 324, 504, 506, 302, 120B of the Indian Penal Code and under Section 27 of the Arms Act.

5. the bail application of the petitioner has been pressed by the learned counsel for the petitioner on two grounds. One is on merits and the second ground is on the delay in trial.

6. It is also submitted by the learned counsel for the petitioner that the petitioner is in jail since 26.02.2023.

7. Learned APP for the State vehemently opposed the prayer of the petitioner for grant of bail.

8. In view of the above submission, the earlier application of the petitioner was rejected on merits so this Court is not persuaded to go into the merits of the case and so far as the second ground of delay in trial of the petitioner is concerned



it is directed to the Superintendent of Police, Jehanabad to take personal interest in the case so that the witnesses are produced in the trial on the dates fixed and the trial is concluded at the earliest.

9. With the aforesaid directions, this application is dismissed.

10. If there is no sufficient progress in the trial of the petitioner because of the fault of the prosecution side then the petitioner may renew his prayer for grant of bail.

(Sandeep Kumar, J)

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