

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3061 of 2024

Arising Out of PS. Case No.-48 Year-2016 Thana- SAHPUR District- Bhojpur

BASHANT MISHRA@VIKASH MISHRA S/O LATE SHYAM BIHARI
MISHRA R/O VILL-SONBARSA, PS-SHAHPUR, DIST-BHOJPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Kumar Rakesh Chandra
For the Informant	:	Mr. Sanjay Kumar Tiwari,
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the informant as well as learned counsel for the State.

2. This is the third attempt of the petitioner for grant of bail. Earlier the bail application of the petitioner was rejected vide order dated 23.09.2016 passed in Cr. Misc. No. 31237 of 2016 along with its analogous case. Thereafter, the petitioner again filed an application for grant of bail which was allowed vide order dated 20.09.2017 passed in Cr. Misc. No. 32814 of 2017 which is as follows:-

“Heard learned senior counsel for the petitioner, informant and learned counsel for the State.

The petitioner is languishing in custody since 22.02.2016 in a case for the offence registered under Sections 147, 148, 149, 341, 324, 307, 302 of the IPC and 27 of the Arms Act.



The prosecution story, in brief, is that while the informant and his family members was returning after attending the marriage ceremony, the accused persons who were armed with rifle and gun, surrounded. Haresh Mishra and Brajesh Mishra started indiscriminate firing from their Carbine on Bisheshwar Ojha and others as a result of which Bisheshwar Ojha died. Earlier the bail application of the petitioner was rejected vide Cr. Misc. No. 36277 of 2016 dated 23.09.2016 with an observation "at this stage" taking the fact that there was specific allegation against co-accused Haresh Mishra and Brajesh Mishra.

It has been submitted by learned senior counsel for the petitioner that the petitioner is in custody since 22.02.2016. The petitioner has falsely been implicated in the present case. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. Seven persons including the petitioner have been named in the F.I.R. No specific injury has been attributed against this petitioner. Specific allegation of assault is against Haresh Mishra and Brajesh Mishra. Other co-accused Harendra Singh @ Bua Singh @ Buwa Singh has already been granted bail by this Court vide Cr. Misc. No. 16748 of 2017 dated 28.06.2017.

On behalf of the learned counsels for the State and the informant, it has been submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner above named, 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 the learned Additional Sessions Judge, 3rd, Arrah, Bhojpur in connection with Shahpur P.S. Case No. 48 of 2016, Sessions Trial No. 390 of 2016."

3. The following statement has been made in



paragraph No. 2 and 8 of the petition:-

“2. That the petitioner has moved earlier before this Hon’ble Court for grant of regular bail vide Cr. Misc. No. 32814/2017 which was allowed on 20.09.2017 by Hon’ble Mr. Justice Sudhir Singh. Thereafter, the petitioner never moved before this Hon’ble Court for grant of anticipatory or regular bail in this matter.

8. That the petitioner has been granted bail by this Hon’ble Court but he did not appear at the time of framing charge as a result of which his bail bond has been cancelled.”

4. Learned counsel for the informant has produced before this Court the order dated 14.09.2018 passed in SLP (Crl.) No. 8874 of 2017 arising out of order dated 28.06.2017 in CRLM No. 16748/2017 in which the following order was passed by the Hon’ble Supreme Court after hearing both the petitioner as well as the learned Senior Counsel for the Respondent therein that is the petitioner in the present case.

“Having regard to the circumstances of the case, we consider it appropriate to direct that status quo, as it exists today, shall be maintained as regards custody of the accused in relation to FIR of Police Case No. 48/2016, Shahpur, District Bhojpur. In the meanwhile, the trial which has already been commenced may be concluded as expeditiously as possible.

Interim order granted by this Court shall remain operative during the pendency of the trial.

The Special Leave petitions are disposed of accordingly.

Pending applications stand disposed of



accordingly.”

5. Mr. S.K. Verma, learned counsel for the petitioner assisted by Mr. Kumar Rakesh Chandra have submitted that they have been kept in dark about the order of the Hon’ble Supreme Court by the *Parvikar* of the petitioner and she had not informed them about the order of the Supreme Court by which the bail granted to the petitioner was stayed and the petitioner was directed to be kept in custody during the period of trial.

6. From the facts enumerated, it appears that the petitioner and his Parvikar, namely, Panchami Devi who is the wife of the petitioner have suppressed the facts and tried to procure a order from this Court.

7. The Registrar General of this Court is directed to file an F.I.R. in Kotwali Police Station, Patna, against the petitioner and his wife Panchami Devi for suppression of facts and trying to mislead the Court for obtaining a favorable order. The F.I.R. must be filed within three weeks from today by the Registrar General of this Court.

8. It has been submitted by learned counsel for the Informant that in the trial, the evidence has been closed about one year back and the petitioner and other accused persons are trying to delay the trial and are not allowing the Court below to pronounce the judgment by filing frivolous petitions.



9. The Additional Sessions Judge 8th, Bhojpur at Ara is directed to hear the case within one month from the date of receipt/production of a copy of this order. No frivolous application filed by the accused persons will be entertained by the Trial Judge.

10. The trial must be decided within two months from date of communication of a copy of this order.

11. After conclusion of the arguments, learned counsel for the informant has submitted that Rakesh Kumar Ojha, son of the deceased Bisheshwar Ojha, has apprehension to his life from the accused side and he was provided police protection, but the same has been withdrawn on the ground that the deposition has been completed.

12. The trial of the case is still pending and the son of the informant Rakesh Kumar Ojha is doing the necessary *parvi* in the trial. He is going to Ara for doing the *parvi* in the case from Patna and needs police protection.

13. This kind of irresponsible action of the State authorities is to be deprecated.

14. The Superintendent of Police, Bhojpur at Ara is directed forthwith to continue with the police protection provided to Rakesh Kumar Ojha till the final disposal of the



sessions trial.

15. The petitioner will move the authorities in accordance with law for extension of police guard.

16. In view of the order of the Supreme Court dated 14.09.2018 passed in SLP (Crl.) No. 8874 of 2017, this application is not maintainable and is dismissed.

17. Let a copy of the order be communicated to the Superintendent of Police, Bhojpur at Ara through FAX/e-mail forthwith for compliance of the order.

(Sandeep Kumar, J)

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