

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7018 of 2025

Arising Out of PS. Case No.-371 Year-2020 Thana- KHAIRA District- Saran

Harshit Mishra @ Aditya Vinayak @ Harshit Kumar Mishra @ Harshit Kumar S/o Devendra Mishra R/o Village - Chetan Chapra, P.S.- Baniyapur, District - Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Varma, Adv

For the Opposite Party/s : Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-04-2025 Heard learned counsel appearing on behalf of the parties.

2. At the outset, it is pointed out that inadvertently in order dated 05.07.2023 when first prayer of bail of petitioner was rejected by one the learned Co-ordinate Bench of this Court, instead of Khaira (Nagra O.P.) P.S. Case No. 371 of 2020, which is apparent from the cause title, inadvertently in second para of the order it was typed as Parbatta P.S. Case No. 128 of 2022. Clarifying further it is submitted that this matter is related with Khaira (Nagra O.P.) P.S. Case No. 371 of 2020, District-Saran.

3. It is submitted while rejecting the aforesaid first



prayer of bail of petitioner the learned Co-ordinate Bench directed learned Trial Court to expedite the trial and conclude the same as soon as possible. Despite of aforesaid direction the trial of case could not concluded for long two years, where after, petitioner preferred his second prayer of bail through Cr. Misc. No. 53171 of 2024, where after considering the custody period learned Trial Court was directed to conclude the trial preferably within next four months, vide its order 04.09.2024.

4. It is submitted that despite repeated directions of this Court the trial of this case is still pending, where petitioner remains in custody since 25.08.2021 i.e., about three years and eight months. In this context it is pointed out that still the trial is at the stage of “prosecution evidence” and same is not likely to conclude in the near future. From the report of learned Trial Court dated 21.03.2025, it also appears that still this matter is pending for examination of prosecution witness.

5. While concluding argument, learned counsel relied upon the legal report of Hon’ble Supreme Court as



available through **Hussainara Khatoon & Others Vs. Home Secretary, State of Bihar** as reported in [(1980) 1 SCC 81] and submitted that speedy trial is a fundamental right of the petitioner and in want of trial, petitioner cannot be kept behind the bars for indefinite period as same amounts to violation of his fundamental right as guaranteed under Article 21 of the Constitution of India.

6. In view of aforesaid factual submission as accused/petitioner is in custody since 25.08.2021, where trial is not likely to conclude in the near future as discussed aforesaid, accordingly, petitioner, above named, is directed to be released on bail in connection with in connection with Sessions Trial No. 78 of 2022 arising out of Khaira (Nagra O.P.) P.S. Case No. 371 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. 17th, Saran at Chapra/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C./Section 480(3) of the BNSS with further conditions:-

(i) That petitioner shall not make any attempt to delay the trial if so, the



State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(Chandra Shekhar Jha, J.)

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