

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39869 of 2023

Arising Out of PS. Case No.-4 Year-1999 Thana- C.B.I CASE District- Patna

NIRJESH SINGH @ NAGA SINGH @ BRAJESH SINGH @ VIRJESH Son
of Swaraj Singh R/o Mohalla - Moldiar Tola, Mokama, P.S.- Mokama,
District - Patna

... .. Petitioner/s

Versus

The Central Bureau of Investigation through Superintendent of Police, New
Delhi New Delhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aditya Prakash Sahay, Advocate Mr. Shivanand Singh, Advocate Ms. Ankita Kumari, Advocate
For the C.B.I.	:	Mrs. Nivedita Nirvikar, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV

19 24-01-2025 Heard Mr. Aditya Prakash Sahay, learned counsel on
behalf of the petitioner and Mrs. Nivedita Nirvikar, learned
Senior Counsel on behalf of the C.B.I.

2. Petitioner is seeking for bail in connection with Sessions
Trial No.1301/2012 in R.C. Case No.4(S)/99 arising out of
Gardanibagh (Shastrinagar) P.S. Case No.336 of 1998,
registered for the offences under Sections 302, 307, 379/34,
120B of the Indian Penal Code and Section 27 of Arms Act.

3. Earlier the prayer for bail of the petitioner was rejected
four times by this Court. This is the fifth attempt of the
petitioner before this Court for releasing him on bail.

4. The prosecution case, in nutshell, is that one Amrendra



Kumar lodged the fardbeyan at I.G.I.M.S., Patna on 13.06.1998 that he went to see Brij Bihari Prasad, a Minister, who was under treatment at I.G.I.M.S. and the informant made allegation that Bhupendra Nath Dubey, Mantu Tiwari, Munna Shukla, Shri Prakash Shukla, Rajan Tiwari and many others made indiscriminate firing killing the minister Brij Bihari Prasad and his bodyguard on the spot.

5. It is submitted by learned counsel for the petitioner that the petitioner is quite innocent and has been falsely implicated in this case due to enmity. He is not named in FIR and he was not apprehended on the spot. There is no recovery of incriminating article from his possession. It is further submitted that all the accused persons named in the FIR have been acquitted by this Court. It is further submitted that for more than 13 years, out of 111 chargesheet witnesses, only one witness has been examined by the prosecution. The petitioner has 70 criminal antecedent and was remanded in this case on 19.08.2011 and has been rotting in judicial custody since then.

6. Learned counsel for the petitioner relied upon the judgment of the Apex Court in the case of *Munawar vs. State of Madhya Pradesh & Ors reported in (2021) 3 SCC 712* in which the Apex Court has held that:-



11. The High Court's view draws support from a batch of decisions of this Court, including in *Shaheen Welfare Assn.*, laying down that gross delay in disposal of such cases would justify the invocation of Article 21 of the Constitution and consequential necessity to release the undertrial on bail. It would be useful to quote the following observations from the cited case: (SCC p. 622, para 10)

“10. Bearing in mind the nature of the crime and the need to protect the society and the nation, TADA has prescribed in Section 20(8) stringent provisions for granting bail. Such stringent provisions can be justified looking to the nature of the crime, as was held in *Kartar Singh* case, on the presumption that the trial of the accused will take place without undue delay. No one can justify gross delay in disposal of cases when undertrials perforce remain in jail, giving rise to possible situations that may justify invocation of Article 21.”

7. He further relied upon the judgments of the Apex Court in the case of ***Praveen Rathore vs. State of Rajasthan & Anr. Reported in 2023 SCC Online SC 1268*** and in the case of ***Prabhakar Tiwari vs. State of Uttar Pradesh & Anr. Reported in (2020) 11 Supreme Court Cases 648.***

8. Learned Senior Counsel for the C.B.I. vehemently opposed the prayer for bail. It is submitted that the chargesheet was submitted against the petitioner showing him absconder, the petitioner remained absconding for more than 13 years and during the investigation, three eye witnesses who were present



on the spot have stated that the petitioner was also present at the time of occurrence and have also fired upon the deceased. It appears that the petitioner is accused in the present case and the petitioner has more than 70 criminal antecedents, all are of heinous nature. It is further submitted that all the original record of the Sessions Trial No.613 of 2002 was sent to the Apex Court by letter no.93 dated 21.04.2015 for reference in Cr. Appeal No.2632-2640 of 2014. Now, the record has been received by the Trial Court and learned Senior Counsel for the C.B.I. submitted that trial may be concluded within two year of time.

9. I have heard both the sides. The case diary and status report was called for and from their perusal, it appears that three eye witnesses who were present on the spot have identified the petitioner as an accused and on that basis petitioner has been been made accused in the present case. Vide order dated 05.07.2024, status report was called for. In compliance thereof, a report sent by learned Additional District & Sessions Judge-XXXIII, Patna, letter no.31, dated 29.08.2024, kept at Flag 'C', whereby it is submitted that in this case charge has been framed on 14.12.2012. Since then the proceeding of this case was not moved further due to non-availability of original record of Sessions Trial No.613 of 2002 and LCR. Now prosecution has



submitted photocopy of record of Sessions Trial No.613 of 2002, before the learned Trial Court and one year of time is likely to be taken in conclusion of the trial of this case, subject to appearance of party and witnesses.

10. The petitioner relied upon the cases aforesaid are not applicable in the present case because in the present case the original record of the case file including the LCR was not available before the learned Trial Court and due to which the trial did not commence accordingly, but in the cases cited by the learned counsel for the petitioner, this fact was silent, so they are not applicable in the present case. Further, the petitioner has 70 criminal antecedents and all are of heinous nature, so, based on the aforesaid grounds, I am not inclined to enlarge the petitioner on bail. Accordingly, the bail petition is hereby rejected.

11. Generally, this Court has not directed the Trial Court to conclude the trial within a certain time limit, but in this case, the petitioner is already in judicial custody for more than 13 years, so based on this ground as well as considering the status report sent by the learned Additional District & Sessions Judge, XXXIII, Patna, it is directed to conduct the Trial day to day and the conclude the same, preferably within a period of one year.



The S.P., C.B.I., is also directed to produce the witnesses before the Trial Court on each and every date without fail. If they fail to perform as per the direction of this Court, then, they will be held liable for non-compliance of this order.

12. However, petitioner is at liberty to renew his prayer for bail if the trial is not concluded within a period of one year.

(Anjani Kumar Sharan, J)

shikha/-

U		T	
---	--	---	--

