

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53714 of 2024

Arising Out of PS. Case No.-849 Year-2018 Thana- SHASTRINAGAR District- Patna

Laxman Kumar @ Lakshman Kumar, Son Of Piyariya Prasad @ Pyare Ram,
R/O- Chhotki Chhariyari, P.S. - Chandi, Distt.- Nalanda At Present R/O-
Chaprasi Quarter No. 54, Shastri Nagar, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar, Advocate
For the State	:	Ms.Madhuri Lata, APP
For the Informant	:	Mr. Hari Shankar Roy, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 16-05-2025 Heard learned counsel for the petitioner, the informant
and learned APP for the State.

2. The petitioner, in the present case, has made his fourth attempt praying for bail in connection with S.Tr. No.381 of 2019 arising out of Shastri Nagar P.S. Case No.849 of 2018 registered for the offences punishable under Sections 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act. Petitioner has got two criminal antecedents as stated in paragraph '3' of the application. He is in custody since 18.12.2018.

3. Learned counsel for the petitioner has drawn the attention of this Court towards the first order dated 03.03.2020 by which while rejecting the prayer for bail of the petitioner, this



Court observed that if the trial is not concluded within a period of six months, the petitioner will be at liberty to renew his prayer for bail. In second attempt, the prayer for bail of the petitioner was rejected vide order dated 01.12.2020. In this order, this Court expressed it's expectation from the trial court that the trial be concluded within a period of six months. In the third attempt, the petitioner's prayer for bail has been rejected vide order dated 13.03.2024 after noticing that the records are fixed for argument but neither the prosecution side nor the defence side could argue the matter. However, learned counsel for the petitioner had made a submission that complete argument had been advanced several times by the prosecution as well as the accused persons.

4. This time, this Court, while rejecting the prayer for bail of the petitioner, observed that the learned trial court shall make all endeavours to conclude the trial and pronounce the judgment within two months but that did not happen. Therefore, the petitioner, who is in custody as an under-trial prisoner, has remained there for about 6½ years by now.

5. At this stage, the attention of this Court has been invited to the order dated 19.09.2024 passed by the learned trial court on the petition under Section 311 Cr.P.C. filed on behalf of



the prosecution. While filing this application, the prosecution prayed for recall of the I.O. (PW-8). The learned trial court has recorded the submissions on behalf of the petitioner in its order that earlier twice the I.O. was recalled on the request of the prosecution, he was examined and cross-examined and then he was discharged. It is also stated that the petitioner has filed written argument on 18.07.2024 but the prosecution did not prove the documents which are described in its petition from I.O. (PW-8) of this case when the said witness was recalled. It is submitted that after gap of two years the prosecution has filed such petition only to fill up the lacuna of the case which has been raised by the defence during argument and prosecution is misusing the provision of Section 311 Cr.P.C.

6. The learned trial court has, after recording the submissions of the parties, observed that after the case record was fixed for judgment on 25.07.2024, the prosecution filed two petitions due to which judgment could not be pronounced. The learned trial court has observed that the case is based on circumstantial as well as electronic evidence and the document mentioned in the petition is already on the record which is essential document for the just decision of the case. Once again summon has been issued to the I.O. (PW-8) and the records



have now gone back at the stage of evidence. It is also informed that the I.O. (PW-8) has died and now perhaps some other official witness would be required to come in the dock to prove those documentary evidences.

7. Be that as it may, this Court is of the view that the petitioner is an under-trial prisoner and his continued incarceration for more than 6½ years at this stage without conclusion of the trial is nothing but an infringement of his fundamental right guaranteed under Article 21 of the Constitution of India in which the principle of speedy justice is also embodied.

8. In the facts of the present case even learned counsel for the informant has submitted before this Court that he is only interested in getting the documents exhibited and if this Court is inclined to grant bail to the petitioner, he would only request the Court to pass an order that the official witness should come in course of evidence at the earliest so that the trial may be concluded.

9. Having regard to the aforesaid submissions and views expressed by this Court, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVI, Patna in



connection with S.Tr. No.381 of 2019 arising out of Shastri Nagar P.S. Case No.849 of 2018, subject to the conditions as laid down under Section 437(3) Cr.P.C.

10. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

11. And further condition that after his release on bail, the petitioner shall keep on appearing in the learned trial court on the date fixed in the matter. Two consecutive defaults in putting appearance shall lead to cancellation of his bail bond.

12. The learned trial court and other stakeholders shall ensure that the official witness must appear on the date fixed in the matter so that the trial may be concluded at the earliest.

13. This application is allowed.

(Rajeev Ranjan Prasad, J)

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