

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 63235 of 2025

In

CRIMINAL MISCELLANEOUS No. 31402 of 2025

Arising Out of PS. Case No.-94 Year-2019 Thana- SIGAUDI District- Patna

Rakesh Kumar Singh @ Rakesh Kumar @ Chuunu Singh S/O Ram Subhak
Singh @ Ram Subhag Singh R/o village- Karnpura, P.S.- Sigori, District-
Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Vikas Kumar, Advocate
For the State : Mrs. Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

4 15-10-2025 Though the present petition has been filed for
modification/recall of order dated 04.07.2025 passed by this
Court in Criminal Miscellaneous Case No. 31402 of 2025 and
for considering the bail application of the petitioner on merits,
however upon a prayer made by the learned counsel for the
petitioner, the present petition has been treated as a bail petition
filed by the petitioner for grant of bail in connection with
Sessions Trial No. 150 of 2021 (arising out of Sigori P.S. Case
No. 94 of 2019). The registry has also placed the records of
Criminal Misc. No. 31402 of 2025 along with the present
petition.



2. The case of the prosecution, in brief, as per the written report filed by one Pratima Devi (informant and the wife of the deceased Rajnikant Tiwary), leading to registration of Sigori P.S. Case No. 84 of 2019 dated 7.10.2019 against the petitioner and others under Sections 341, 323, 307, 504 and 34 of the Indian Penal Code (subsequently upon the death of the husband of the informant Section 302 of the IPC was added vide order dated 08.10.2019), is that the husband of the informant had sold land to Ram Subhag Singh, however Rs. 15,000/- had remained outstanding which was being demanded by him and on account of the same, Ram Subhag Singh, Rakesh Singh @ Chunnu Singh (petitioner) and Chautala Singh had arrived at the house of the informant at 07:00 a.m. in the morning, whereafter they started abusing and while Ram Subhag Singh and Chautala Singh had caught hold of the husband of the informant, the petitioner had, with the intention of killing the husband of the informant, inflicted knife blows on him resulting in him becoming grievously injured.

3. The present case has a chequered history inasmuch as the first bail petition filed by the petitioner i.e. Criminal Misc. No. 17388 of 2020 was permitted to be withdrawn vide order dated 16.03.2021, however with liberty to renew the prayer for bail



after framing of charge. Thereafter, another bail petition bearing Criminal Misc. No. 35071 of 2022 was filed, however the same was disposed off vide order dated 02.11.2022 with liberty to the petitioner to first approach the learned Court below for renewing his prayer for grant of bail. The petitioner had then filed yet another bail petition before this Court vide Criminal Misc. No. 38183 of 2023, however the same was disposed off as not pressed vide order dated 17.10.2023 with a direction to the learned Trial Court to make endeavors to conclude the pending trial within a period of one year as also in case there was no substantial progress in the ongoing trial, the petitioner was granted liberty to renew his prayer for bail after expiry of a period of one and a half years. The said order dated 17.10.2023 was challenged by the petitioner before the Hon'ble Supreme Court by filing a Special Leave Petition bearing SLA (Criminal) No. 185 of 2025, however the same was dismissed as withdrawn vide order dated 20.03.2024. It appears that the petitioner had then filed a review petition in the said Special Leave Petition, nonetheless, the same had also stood dismissed vide order dated 18.09.2024, however with liberty to the petitioner to renew his prayer for bail if the Trial Court fails to conclude the trial in the extended period despite petitioner's full cooperation.



4. The petitioner had again filed a bail petition vide Criminal Misc. No. 31402 of 2025, however in view of the report dated 21.05.2025 submitted by the learned Court of Additional Sessions Judge-V, Civil Court, Danapur, Patna to the effect that four witnesses have been examined and date has been fixed for cross-examination of the fifth witness as also the trial is likely to be concluded within a period of four months, the learned senior counsel appearing for the petitioner had sought not to press the said petition at the moment, however had prayed for directing the learned Trial Court to conclude the trial within a period of six months, failing which the petitioner be granted liberty to approach this Court for grant of bail. Accordingly, the said petition was disposed off vide order dated 04.07.2025 with a direction to the learned Trial Court to definitely conclude the trial within a period of six months. The petitioner had then challenged the said order dated 04.07.2025 before the Hon'ble Apex Court by filing a Special Leave Petition bearing SLA (Criminal) No. 11327 of 2025, however the same was disposed off as withdrawn vide order dated 06.08.2025, however permitting the petitioner to move an application before the High Court for modifying/recalling the impugned order dated 04.07.2025 and for deciding the bail application on merits. The



petitioner has then filed the present petition i.e. Criminal Misc. No. 63235 of 2025 for recalling the aforesaid order dt. 4.7.2025.

5. The present petition was taken up for hearing by this Court on 12.09.2025 and this Court had called for a report from the learned Court of Additional Sessions Judge-V, Danapur, Patna in connection with Sessions Trial No. 150 of 2021 (arising out of Sigori P.S. Case No. 94 of 2019) regarding compliance of the earlier order of this Court dated 17.10.2023 passed in Criminal Misc. No. 38183 of 2023 pertaining to the conclusion of trial within the period stipulated therein and this case was directed to be listed after four weeks, however the petitioner, in the meantime had again approached the Hon'ble Apex Court against the said order dated 12.09.2025, wherein an impression was given that no next date of hearing has been fixed in the matter, leading to the Hon'ble Apex Court having disposed off the said petition bearing SLA (Criminal) No. 15090-15091 of 2025 vide order dated 25.09.2025 with a request to this Court to list Criminal Misc. No. 63235 of 2025 as early as possible and preferably in the week commencing from 06.10.2025 as also with a further request to the Hon'ble Judge before whom the bail application is to be listed to decide the same expeditiously. The aforesaid petition was again listed before this Court on



10.10.2025 along with letter/report dated 07.10.2025 sent by the learned Court of Additional Sessions Judge-Vth, Danapur, Patna in connection with Sessions Trial No. 150 of 2021 (arising out of Sigori P.S. Case No. 94 of 2019), wherein it has been stated that five witnesses have already been examined and non-bailable warrants have been issued upon the remaining witnesses, the next date of hearing is fixed for 08.10.2025 and the case is likely to be disposed off within two months.

6. The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. It is submitted that the fact is that the father of the petitioner had purchased the aforesaid land from one Anjani Tiwary and not from the husband of the informant, hence the entire prosecution story is based on falsehood, thus there is no question of any amount being outstanding. It is further submitted that the real fact is that on 06.10.2019 at about 07:30 p.m. scuffle had taken place in between the family members of the petitioner and the family members of the informant and in the said occurrence the petitioner was also seriously injured, whereafter his treatment had taken place at Dayal Nursing Home on 06.10.2019 and a bare perusal of the prescription of the said Dayal Nursing Home



would show that the petitioner had received serious injuries, hence he was referred to Government Hospital for further treatment and then on the next day i.e. 7.10.2019 at about 09:30 a.m., when the petitioner was going for further treatment as also for filing the case against the accused persons, the police had arrested him, nonetheless the doctor of the Jail vide his letter dated 28.10.2019 has also certified about the injuries sustained by the petitioner. It is next stated that the petitioner had then filed a complaint case from Jail bearing Compliant Case No. 2100(C) of 2019 before the learned Court of JMFC, Civil Court, Danapur against the family members of the informant and the learned Court of JMFC, Civil Court, Danapur vide order dated 25.01.2023 has been pleased to take cognizance against the accused persons of the said complaint case under Sections 341, 323, 324, 452 read with Sect. 34 of the IPC and the said accused persons have been issued summons. Lastly, it is submitted that the petitioner is in custody since 08.10.2019 i.e. since about six years and despite this Court having directed the Ld. Trial Court vide order dt. 17.10.2023 passed in Criminal Misc. No. 38183 of 2023 to conclude the pending trial within a period of one year, the trial has not yet been concluded, however it is pointed out that all the crucial witnesses have already been examined.



7. *Per contra*, the learned APP for the State has vehemently opposed the prayer for bail and has submitted that the prayer of the petitioner for grant of bail have stood rejected in the past on several occasions and there is no change in circumstance so as to warrant re-consideration of the prayer of the petitioner for grant of bail.

8. Having regard to the submissions made by the learned counsel for the parties, this Court finds that perhaps occasion had not arisen for consideration of the prayer of the petitioner for grant of bail on merits, nonetheless it appears from the record that a free-fight had taken place in between the parties resulting in death of the deceased as also the petitioner sustaining injuries, however at this stage when the trial is in progress, it would not be conducive to comment on the merits of the case, nonetheless it cannot be denied that the petitioner has been in custody for about six years. It is a well settled law that personal liberty of an individual is a precious fundamental right and should not be curtailed unless it is imperative in the facts and circumstances of the case. This Court finds that it is equally a well settled law that the basic rule is to grant bail except where there are circumstances suggestive of fleeing from justice or throttling the course of justice or creating other trouble including



intimidating witnesses, etc. In this connection reference be had to a judgment rendered by the Hon'ble Apex Court in the case of ***State of Rajasthan vs. Balchand @ Baliay***, reported in ***(1977) 4 SCC 308***, paragraph nos. 3 and 4 whereof are reproduced herein below:-

“3. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also the heinousness of the crime. Even so, the record of the petitioner in this case is that, while he has been on bail throughout in the trial court and he was released after the judgment of the High Court, there is nothing to suggest that he has abused the trust placed in him by the court; his social circumstances also are not so unfavourable in the sense of his being a desperate character or unsocial element who is likely to betray the confidence that the court may place in him to turn up to take justice at the hands of the court. He is stated to be a young man of 27 years with a family to maintain. The circumstances and the social milieu do not militate against the petitioner being granted bail at this stage. At the same time any possibility of the absconsion or evasion or other abuse can be taken care of by a direction that the petitioner will report himself before the police station at Baren once every fortnight.

4. The petitioner will be released on bail on his entering into a bond of his own and one surety for Rs 5000 to the satisfaction of the Additional District and Sessions Judge, Baren. While the system of pecuniary bail has a



tradition behind it, the time has come for re-thinking on the subject. It may well be that in most cases not monetary suretyship but undertaking by relations of the petitioner or organisation to which he belongs may be better and more socially relevant. Even so, in this case we stick to the practice and direct the furnishing of one surety for Rs 5000.”

9. This Court would also gainfully refer to a judgment rendered by the Hon’ble Apex Court in the case of ***Praveen Rathore vs. State of Rajasthan & Anr.***, reported in ***(2023) SCC online SC 1268***, wherein the Hon’ble Apex Court has granted bail to the accused charged under Section 302/120B of the IPC, considering the long custody of about four and a half years and the possibility that the trial is not likely to conclude soon. This Court would also refer to yet another judgment rendered by the Hon’ble Apex Court in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation & Anr.***, reported in ***(2022) 10 SCC 51***, wherein the Hon’ble Apex Court considering the prevailing situation of prisons in India, definition of trial and bail, principle of presumption of innocence etc. has reiterated, yet recognized the principle that bail is the rule and jail is an exception in bail jurisprudence on the touchstone of Article 21 of the Constitution of India. In this regard, paragraphs no. 6 to 15 of the said judgment are reproduced herein below:-



“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.

7. The word “trial” is not explained and defined under the Code. An extended meaning has to be given to this word for the purpose of enlargement on bail to include, the stage of investigation and thereafter. Primary considerations would obviously be different between these two stages. In the former stage, an arrest followed by a police custody may be warranted for a thorough investigation, while in the latter what matters substantially is the proceedings before the court in the form of a trial. If we keep the above distinction in mind, the consequence to be drawn is for a more favourable consideration towards enlargement when investigation is completed, of course, among other factors.

8. Similarly, an appeal or revision shall also be construed as a facet of trial when it comes to the consideration of bail on suspension of sentence.

9. The term “bail” has not been defined in the Code, though



is used very often. A bail is nothing but a surety inclusive of a personal bond from the accused. It means the release of an accused person either by the orders of the court or by the police or by the investigating agency.

10. It is a set of pre-trial restrictions imposed on a suspect while enabling any interference in the judicial process. Thus, it is a conditional release on the solemn undertaking by the suspect that he would cooperate both with the investigation and the trial. The word “bail” has been defined in Black's Law Dictionary, 9th Edn., p. 160 as:

“A security such as cash or a bond; esp., security required by a court for the release of a prisoner who must appear in court at a future time.”

11. Wharton's Law Lexicon, 14th Edn., p. 105 defines “bail” as:

“to set at liberty a person arrested or imprisoned, on security being taken for his appearance on a day and at a place certain, which security is called bail, because the party arrested or imprisoned is delivered into the hands of those who bind themselves or become bail for his due appearance when required, in order that he may be safely protected from prison, to which they have, if they fear his escape, etc. the legal power to deliver him.”

12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India. This Court in Nikesh Tarachand Shah v. Union of India [(2018) 11 SCC 1], held that:

“19. In Gurbaksh Singh Sibbia v. State of Punjab



[(1980) 2 SCC 565], the purpose of granting bail is set out with great felicity as follows:

'27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra Nath Chakravarti, In re [Nagendra Nath Chakravarti, In re, 1923 SCC OnLine Cal 318 : AIR 1924 Cal 476], AIR pp. 479-80 that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the "Meerut Conspiracy cases" observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [1931 SCC OnLine All 60 : AIR 1931 All 504] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard-and-fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor v. H.L. Hutchinson



[1931 SCC OnLine All 14 : AIR 1931 All 356], AIR p. 358 it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. Coming nearer home, it was observed by Krishna Iyer, J., in *Gudikanti Narasimhulu v. Public Prosecutor* [(1978) 1 SCC 240] that:

“1. ... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of “procedure established by law”. The last four words of Article 21 are the life of that human right.”



29. *In Gurcharan Singh v. State (Delhi Admn.) [(1978) 1 SCC 118]* it was observed by Goswami, J., who spoke for the Court, that:

“29. ... There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. *In American Jurisprudence (2nd Edn., Vol. 8, p. 806, para 39)*, it is stated:

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.’

24. *Article 21 is the Ark of the Covenant so far as the Fundamental Rights Chapter of the Constitution is concerned. It deals with nothing less sacrosanct than the rights of life and personal liberty of the citizens of India and other persons. It is the only article in the*



Fundamental Rights Chapter (along with Article 20) that cannot be suspended even in an emergency [see Article 359(1) of the Constitution]. At present, Article 21 is the repository of a vast number of substantive and procedural rights post Maneka Gandhi v. Union of India [(1978) 1 SCC 248].”

13. Further this Court in *Sanjay Chandra v. CBI [(2012) 1 SCC 40]*, has observed that:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary



circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”

14. Innocence of a person accused of an offence is presumed through a legal fiction, placing the onus on the prosecution to prove the guilt before the court. Thus, it is for that agency to satisfy the court that the arrest made was warranted and enlargement on bail is to be denied.

15. Presumption of innocence has been acknowledged throughout the world. Article 14(2) of the International Covenant on Civil and Political Rights, 1966 and Article 11 of the Universal Declaration of Human Rights, 1948 acknowledge the presumption of innocence, as a cardinal principle of law, until the individual is proven guilty.”

10. Now, coming back to the present case this Court finds that despite the learned Trial Court having been directed by this Court vide order dated 17.10.2023 passed in Criminal Misc. No. 38183 of 2023 to make endeavors to conclude the trial within a period of one year, the trial is yet to be concluded, nonetheless this Court also finds that liberty was granted to the petitioner to renew his prayer for bail by the said order dated 17.10.2023 for



grant of bail after expiry of a period of one and a half years, whereafter the petitioner had though filed a bail petition bearing Criminal Misc. No. 31402 of 2025, however on account of the fact that the learned Trial Court had submitted a report in the said case that four witnesses have been examined and the trial is likely to be concluded within a period of four months, the said petition was disposed off while granting learned Trial Court six months to conclude the trial, upon the learned senior counsel appearing for the petitioner having sought not to press the said petition, however instead having sought liberty to approach this Court for grant of bail in case the trial is not concluded within a period of six months. Nevertheless, this Court finds from the report dated 07.10.2025 furnished by the learned Court of Additional Sessions Judge-V, Danapur, Patna in the present case that five witnesses have been examined while non-bailable warrants have been issued upon the remaining witnessing, which leads to a *prima facie* inference that the prosecution is delaying the trial but this Court has been informed that important witnesses including the informant have already been examined. This Court further finds that the petitioner is a practicing advocate, he has got no criminal antecedent and is having deep roots in the society, hence the same is suggestive of



the fact that the petitioner is not likely to flee from justice or thwart the course of justice or create other troubles. Thus, considering the facet of long incarceration of the petitioner and for the foregoing reasons, it is *prima facie* evident that the trial may not be concluded in immediate foreseeable future, hence it would be expedient to enlarge the petitioner on bail.

11. Accordingly, the petitioner, above named, is directed to 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 learned Additional Sessions Judge-V, Danapur, District-Patna in connection with Sigori P.S. Case No. 94 of 2019, however subject to following conditions:-

- (i) *The petitioner before his actual release from jail shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station as also to the learned Trial Court.*
- (ii) *The petitioner shall appear on each and every date so fixed by the learned Trial Court in the ongoing trial and in the event of any default, the present privilege of bail being granted to the petitioner shall stand cancelled forthwith and the petitioner would be liable to be taken into custody immediately.*
- (iii) *The petitioner shall cooperate with the conduct of trial and will not take any unnecessary adjournments.*



- (iv) *The petitioner shall not leave the district of Patna without prior permission of the learned Trial Court.*
- (v) *The petitioner shall not influence any of the witnesses or tamper with the evidence in any manner; and*
- (vi) *In case of any infraction of the above conditions, the present privilege of bail being granted to the petitioner would be liable to be cancelled.*

(Mohit Kumar Shah, J)

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