

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69514 of 2024

Arising Out of PS. Case No.-14 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Bambam Mahto Son of Late Horil Mahto R/O Vill.- Samsa, P.S.- Nowkothi,
Dist.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anshul, Sr. Advocate
		Mr. Nakul Kumar Jamuar, Advocate
For the State	:	Mr. Nirmal Kumar Sinha, APP
For the Informant	:	Mr. S.K.Lal, Sr. Advocate
		Mr. Pritish Kumar Lal, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

8 17-01-2025

1. Heard learned counsel for the parties.

2. The petitioner has renewed his prayer for bail in connection with Sessions Trial no.1058 of 2023 (Nowkothi P.S. Case no.14 of 2020) registered under sections 302, 120B, 147, 148 and 149 of the Indian Penal Code and section 27 of the Arms Act.

3. As per the prosecution case, the petitioner is said to be the assailant of the *bhabhi* of the informant leading to her death.

4. Learned Senior counsel for the petitioner submits that the earlier prayer for bail of the petitioner was rejected vide order dated 5.3.2024 directing the learned trial Court to expedite the trial. The petitioner has been falsely implicated in the case.



The manner of occurrence is other than what has been narrated in the FIR. Inspite of the petitioner being in custody since 5.12.2020 and charge having been framed in the learned trial Court as far back as in January 2024, not a single witness has been examined on behalf of the prosecution. The petitioner undertakes to cooperate in the trial and to abide by the conditions which may be laid by this Court for his release on bail.

5. The application for bail is opposed by learned A.P.P. for the State and learned Senior counsel for the informant. In reference to the counter affidavit, learned Senior counsel for the informant submits that a petition for amalgamation of the four trials have been filed wherein no order has been passed. It is submitted that the witnesses being common in all the four sessions trial, their examination in the four sessions trial separately may prejudice the prosecution.

6. A report was called for from the learned trial Court. As per the report received, charge was framed against the petitioner on 24.1.2024. However, inspite of issuance of summons,ailable warrants and non-ailable warrants against the non official witnesses on different dates being 16.5.2024, 21.6.2024 and 21.8.2024, not a single witness has been



examined on behalf of the prosecution even after almost a year having passed since the order framing charge. The petitioner has remained in custody since 5.12.2020 i.e. for over four years.

7. In view of the facts and circumstances of the case, the allegations against the petitioner in the FIR, the petitioner having remained in custody for over four years since 5.12.2020 and no explanation being given in the counter affidavit filed on behalf of the informant as to why no witness is appearing in the learned trial Court inspite of charge having been framed a year back on 24.1.2024 as also issuance of summons, bailable warrants and non-bailable warrants against the non official witnesses on 16.5.2024, 21.6.2024 and 21.8.2024, the Court directs the petitioner to be enlarged on bail in connection with Sessions Trial no.1058 of 2023 (Nowkothi P.S. Case no.14 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 the learned Additional District and Sessions Judge III, Begusarai on the following conditions:

(i) The petitioner shall remain physically present in Court on each date of the trial and shall cooperate in the trial.

(ii) In case the petitioner is absent on any date for reasons not to the satisfaction of the learned trial Court or the



learned trial Court is of the opinion that the trial is being delayed due to non-cooperation on part of the petitioner, the learned trial Court will be at liberty to cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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