

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83213 of 2024

Arising Out of PS. Case No.-840 Year-2016 Thana- BIHTA District- Patna

Sonu Kumar, Son of Umesh Kumar @ Umesh Kumar Nirala @ Umesh Rai,
Resident of Village - Sarkuna, P.S. -Dulhin Bazar, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Shankar Choudhary, Advocate

For the Opposite Party/s : Mr.Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 10-01-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Sessions Trial No. 230 (A) of 2017, arising out of Bihta P.S. Case No. 840 of 2016, registered for the alleged offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. It is a case of misuse of privilege of bail.

4. The learned counsel for the petitioner submits that the petitioner was granted anticipatory bail as after filing of the charge sheet, the petitioner was not sent up for facing trial. But the learned trial court, differing with the police report, took cognizance against the petitioner. The petitioner has challenged the cognizance order by filing Cr. Misc. No.15434 of 2018 and



during the pendency of the instant petition, the petitioner also filed the discharge petition which was rejected vide order dated 04.12.2019 by the learned trial court. The petitioner again moved before this Court for quashing the order dated 04.12.2019 vide Cr. Misc. No. 1841 of 2020, which was taken up and disposed of after hearing vide order dated 19.05.2022. But, in the meantime, the bail bond of the petitioner was cancelled during the pendency of the quashing petition. Thereafter, the petitioner surrendered before the learned trial court on 16.08.2022 and prayed for regular bail, which was rejected by the learned trial court. Thereafter, the petitioner filed Cr. Misc. No.53927 of 2022 before this Court for grant of bail. The petitioner was granted bail by this Court vide order dated 15.11.2022 passed in Cr. Misc. No. 53927 of 2022 with certain conditions and one of the conditions was that in case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner would be liable to be cancelled by the court concerned. But the petitioner never misused the conditions of bail. The learned counsel further submits that there is no fault of this petitioner as being aggrieved by the conduct of the learned counsel for the petitioner, the learned trial court took harsh view against the



petitioner. There has been no misuse as such in terms of the orders of this Court as the petitioner fell ill and though he came to the court, but he could not attend the court on date fixed i.e. on 24.05.2023 and sent an application through his father which was not considered by the learned Additional Sessions Judge. The learned counsel next submits that the petitioner, thereafter, moved before the learned trial court seeking recall of P.W. 4, namely Raj Kishore Yadav, but this application was rejected. Subsequently, the petitioner preferred a quashing application against the dismissal of recall petition before this Court in Cr. Misc. No. 65452 of 2024 wherein a Coordinate Bench of this Court issued notice to the informant and stayed the further proceeding in connection with Bihta P.S. Case No. 840 of 2016 vide order dated 24.09.2024. The learned counsel, thus, submits that the petitioner is in custody since 17.07.2023 and the trial has been stayed by the Coordinate Bench and it is not likely to be taken up in near future and the career of the petitioner would be jeopardized if not allowed bail.

5. Learned APP opposes the prayer for bail submitting that the petitioner has misused the privilege of bail on two occasions.

6. Perused the records.



7. Perusal of record shows the petitioner was granted bail by this Court vide order dated 15.11.2022 passed in Cr. Misc. No. 53927 of 2022 in a case of misuse of privilege of bail since the learned trial court cancelled the bail bond of the petitioner as he failed to appear before the learned trial court on dates fixed. Perusal of record further shows the petitioner did not present himself physically on 12.05.2023 and the learned trial court has recorded the conduct of the petitioner in detail in order sheets dated 12.05.2023 and, thereafter, on 24.05.2023 when it ordered for issuance of Non-Bailable Warrant against the petitioner and sought immediate production of the petitioner and the next date was fixed on 31.05.2023. Further perusal of order sheet dated 31.05.2023 shows the petitioner fled away from his residence when the police went to arrest him and the learned trial court noted that the petitioner has absconded and it issued process under Sections 82/83 of Cr.P.C. It has also been taken note of by the learned trial court that two applications signed by the petitioner were filed and the first application filed under Section 317 Cr.P.C. dated 31.05.2023 was dismissed as not being maintainable and the other application seeking counsel for legal aid has been allowed. The fact is also to be noted that the petitioner discontinued his appearance when the



matter was fixed for judgment. It is also pertinent to take note here that at the instance of the petitioner, the proceeding in connection with Bihta P.S. Case No.840 of 2016 came to be stayed with respect to the petitioner. Naturally it could be inferred that the petitioner has been adopting dilatory tactics and the learned trial court vide detailed orders taking note of the conduct of the petitioner took the extreme steps of issuing Non-Bailable Warrant and, thereafter, proceeding under Sections 82/83 Cr.P.C. It is also a fact that the petitioner has misused the privilege of bail on previous two occasions.

8. Having regard to the facts and circumstances of the case as well as conduct of the petitioner, I do not think the petitioner deserves to be enlarged on bail at this stage.

9. Accordingly, his prayer for grant of bail is rejected.

(Arun Kumar Jha, J)

V.K.Pandey/-

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