

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84669 of 2024

Arising Out of PS. Case No.-328 Year-2020 Thana- VAISHALI District- Vaishali

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Ram Awtar Bhagat Son of Late Suraj Bhagat Resident of Village
-Bhagwanpur Ratti, Tola Rampur Rudra, PS- Vaishali District -Vaishali

... .. Petitioner

Versus

1. The State of Bihar
2. Sunil Kumar, S/O-late Fudena Mahto r/o village Bhagwanpur Ratti,
Tola Rampur Rudra, P.S. and District-Vaishali

... .. Opposite Party

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Appearance :

For the Petitioner/s :	Mr.Shyameshwar Kumar Singh, Advocate
For the Opposite Party/s :	Mr.Md. Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

10 07-10-2025 Heard Mr. Shyameshwar Kumar Singh, learned

counsel appearing on behalf of the petitioner and Mr. Md.

Fahimuddin, learned A.P.P. for the State.

2. The accused/petitioner seeks bail in connection

with Vaishali P.S. Case No. 328 of 2020 registered for the

offences under Sections 147, 148, 149, 341, 323, 324, 427,

504, 506, 307 of the Indian Penal Code and Section 27 of the

Arms Act. Later on Section 302 of the I.P.C. was added.

3. The accused/petitioner is named in the First

Information Report and is in custody for about two years and

four months.



4. Present is the second successive bail petition of petitioner after rejection of his prayer of bail by the Hon'ble Supreme Court through Cr. Appeal No. 95/2022 (*Sunil Kumar Vs. The State of Bihar and Another*) dated 25.01.2022, through which bail granted to the petitioner by this Court vide order dated 17.08.2021 in Cr. Misc. No. 13149/2021 was cancelled.

5. As per F.I.R., during the occurrence the brother of informant was murdered by causing fire-arm injury alongwith co-accused persons, where the petitioner was alleged to be the order giver.

6. It is submitted by learned counsel appearing on behalf of the petitioner that present successive bail petition is on twin grounds i.e. custody period of the petitioner and slow progress of trial.

7. It is pointed out that the Hon'ble Supreme Court set-aside the bail of the petitioner, which was granted earlier by this High Court, for the reason that the order was non-speaking.

8. It is submitted that while dealing with the Criminal



Appeal No. 95/2022, as discussed aforesaid, the Hon'ble Apex Court expressed its concern that petitioner is the history-sheeter and found involved in double murder, where father and brother of the informant of this case was killed for which Vaishali P.S. Case No. 28/1991 was lodged. It was observed that informant and witnesses are yet to be examined in that case and, therefore, considering the overall aspect the prayer of bail of petitioner, as granted by this Court, was rejected.

9. Arguing further, it is submitted that now almost all the prosecution witnesses have been examined in Session Trial No. 210/1992 arising out of Vaishali P.S. Case No. 28/1991 and, therefore, examination of all the material witnesses are now complete and, therefore, the threat perception, as expressed, is now no more available which may affect the trial of the case adversely in view of Hon'ble Supreme Court order.

10. Arguing further, it is submitted that petitioner remains in custody for about two years and four months, where not even a single prosecution witness was examined.



11. It is pointed out that certainly petitioner cannot be kept behind the bar for for an indefinite period in want of trial. It is submitted that the right of speedy trial is the fundamental right of petitioner. In support of his submission, learned counsel relied upon the legal report of Hon'ble Apex Court as available through **Hussainara Khatoon & Ors Vs. Home Secretary State of Bihar [1980 (1) SCC 98]**.

12. Non-appeared on behalf of the informant on repeated call. However, it was informed by learned A.P.P. that remaining two witnesses were not examined in terms of order dated 12.09.2025, as the trial court is vacant for the present in separate trial.

13. Taking contrary to the submission as advanced aforesaid, it is submitted that the trial of this petitioner was separated and not even a single prosecution witness was examined till now.

14. In view of the aforesaid factual submission and by taking note of the fact as despite of custody of petitioner for about two years and four months, not even a single prosecution witness was examined by learned trial court which



appears *prima facie* in violation of fundamental right *qua* speedy trial of the petitioner, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XII, Vaishali at Hajipur, in connection with Vaishali P.S. Case No. 328 of 2020/S. Tr. No. 308/2021, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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