

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25701 of 2026

Arising Out of PS. Case No.-199 Year-2018 Thana- KARJA District- Muzaffarpur

Ajay Kumar Pandey @ Ajay Pandey @ Ajay Kumar Son of Late Sita
Ram Pandey Resident of Village - Ram Bagh Chouri, P.S. - Mithanpura,
District – Muzaffarpur. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Nivedita Nirvikar, Sr. Advocate Mr. Shashank Shekhar, Advocate Mr. Mukesh Kumar Thakur, Advocate
For the State	:	Mr. Raj Kishor Singh, APP
For the Informant	:	Mr. Ashhar Mustafa, Advocate Mrs. Anita Kumari, Advocate Mr. Chitrangda Mustafa, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

9 08-07-2026 Heard Ms. Nivedita Nirvikar, learned senior counsel
appearing on behalf of the petitioner and learned A.P.P. for the
State duly assisted by Mr. Ashhar Mustafa, learned counsel
appearing on behalf of the informant.

2. The accused/petitioner, who is not named in the
FIR, is in custody since **05.11.2018 to 08.02.2019 and from**
19.02.2025, i.e. total period of one year seven months and
twenty one days, seeks regular bail in connection with Karja
P.S. Case No. 199 of 2018 (Sessions Trial No. 452/2024)
registered for the offences punishable under Sections 363, 364
and added sections 302, 120(B) & 201 of the Indian Penal
Code and Section 27 of the Arms Act.



Allegation against the petitioner

3. Petitioner alleged to involve in committing murder of son of the informant as during investigation petitioner, soon before the death of son of the informant was repeatedly contacted from mobile no. 7361907855 with deceased which was alleged to be in use of petitioner/accused.

Brief History of earlier Bail Petition preferred by the accused/petitioner

4. As several multiple efforts has been made by this petitioner with prayer of bail before this Court and Hon'ble Supreme Court, therefore, it would be apposite here to mention all such previous proceedings for sake of clarity and convenience:

(i) After arrest in the present case, petitioner preferred first petition of regular bail to this Court through Cr. Misc. No. 3386/2019, which was disposed on 08.02.2019, where petitioner was granted regular bail with certain conditions imposed by this Court, as such petitioner remained in custody total of about three months and three days, since 05.11.2018. In this petition, petitioner mentioned his total criminal antecedent as three (3);

(ii) Aggrieved with aforesaid order, first informant



approached the Hon'ble Supreme Court through **Criminal Appeal No. 1755 of 2019 [Special Leave Petition (Crl.) No. 6793 of 2019]**, wherein Hon'ble Supreme Court vide its order dated 25.11.2019, set-aside the order dated 08.02.2019, as mentioned aforesaid, for the reason that petitioner did not disclosed his true criminal antecedents as he was involved in five (5) criminal cases. A request was made to this High Court to decide the bail application afresh after hearing the complainant;

(iii) After the aforesaid direction of the Hon'ble Supreme Court, petitioner preferred second bail petition before this Court, which was registered as Cr. Misc. No. 3386 of 2019, wherein vide its order dated 05.01.2022, one of the learned coordinate Bench of this Court, considering the mistake as bonafide, allowed this petitioner to remain on bail but while authoring order of bail, it was observed that petitioner remains in custody total of two years and ten months i.e. from 05.11.2018 to 24.09.2021;

(iv) The first informant again challenged the aforesaid order before the Hon'ble Supreme Court through **Criminal Appeal No. 1679 of 2022 [Special Leave to Appeal (Crl.) No. 5600 of 2022]**, raising submission that the custody period



was recorded wrongly as this petitioner has remained in custody for about three months only. Taking note of the aforesaid mistake, Hon'ble Apex Court vide its order dated 26.09.2022 again set-aside the impugned order dated 05.01.2022 as passed by this Court in Cr. Misc. No. Cr. Misc. No. 3386 of 2019, and remanded the case for a fresh consideration of bail petition of the petitioner on the basis of correct facts with request to consider all contentions that may be raised on behalf of the State as well as complainant, however, petitioner was allowed to continue on interim regular bail till the High Court decides his bail application afresh;

(v) This time, Hon'ble the Chief Justice of the High Court of Judicature at Patna was requested to place this matter before different Bench;

(vi) It is how this matter was assigned to this Court by the then Hon'ble Chief Justice and thereafter petitioner filed bail petition, which was registered as Cr. Misc. No. 3386/2019. Considering all such contentions and taking note of submission of the petitioner and first informant afresh, this Court rejected the prayer of bail of the petitioner vide its order dated 04.05.2023;



(vii) Now, the aforesaid order was challenged by the accused/petitioner before Hon'ble Supreme Court through **Special Leave to Appeal (Crl.) No. 6907 of 2023**, wherein vide order dated 29.02.2024, the Hon'ble Apex Court vacated the interim protection granted to the petitioner and directed him to surrender forthwith before the learned trial court with liberty to apply afresh after the deposition of the family members of the victim is complete, and also directed the learned trial court to make an endeavour to conclude the statements of the private witnesses, including the family members of the victim within four months;

(viii) After the aforesaid direction of Hon'ble Supreme Court, instead of immediate surrender before the learned trial court, petitioner/accused remain absconded for long one year and was put behind the bar on 19.02.2025 only;

(ix) Immediately after passing of one month of his arrest, the petitioner preferred bail petition before this Court through Cr. Misc. No. 24554/2025, which was listed before this Court as "**Tied-Up**". During course of argument, considering that present petition was preferred prematurely as four months' time to examine the private witnesses including the family members was not even passed, learned counsel



appearing for the petitioner seeks permission to withdraw the petition, which was permitted to withdraw vide order dated 18.04.2025;

(x) Now, this petitioner preferred another bail petition through Cr. Misc. No. 32907/2025 for grant of provisional bail on the eve of marriage ceremony of his daughter, where his prayer was again rejected by this Court vide its order dated 16.05.2025, by giving direction to the jail authority and administration to make an arrangement for physical participation of petitioner, in custody for two hours to perform rituals related with '*Kanyadan*' or in alternate to facilitate him to perform the same through virtual mode on the occasion of his daughter wedding from jail, however, this liberty was not availed by the petitioner;

(xi) Now, the petitioner again preferred a bail petition before this Court which was registered as Cr. Misc. No. 52181/2025, where during the course of argument, it transpires that almost all the prosecution witnesses have been examined and the case was fixed for examination of defence witnesses, therefore, by taking note of the fag end of the trial, the prayer of bail of the petitioner was rejected vide order dated 09.02.2026.



5. Having all such backgrounds, now the petitioner preferred the present bail petition on the grounds that still this matter is pending for examination of prosecution witnesses, private and family members have already examined but trial is not likely to conclude in near future.

Argument on behalf of the petitioner

6. At the outset, it is submitted by Ms. Nivedita Nirvikar, learned senior counsel appearing on behalf of the petitioner that the present petition preferred on twin grounds, **firstly**, long period of custody as petitioner remains in custody in this matter for about three months (previous occasion) and continuously since 19.02.2025 i.e. total of about one year and eight months, and, **secondly**, slow progress of trial as still this matter is pending for examination of prosecution witnesses.

7. Certainly, this Court is not in a position to reconsider the merit, as all the available merits were duly considered by this Court while rejecting the prayer of bail of this petitioner through Cr. Misc. No. 3386 of 2019 dated 04.05.2023, which would be otherwise amounting to review its own earlier order, which is not possible under law and, therefore, merit out of referred paras of case diary as available



under para nos. 26, 29, 47, 49, 59, 90 & 93 by Ms. Nirvikar was not taken care of again as same were already considered while considering earlier bail petition that is Cr. Misc. No. 3386 of 2019.

8. Arguing in support of her submission that the trial of this case cannot be concluded in near future, Ms. Nirvikar, submitted that still one charge-sheet witness is left for his complete examination and the petition of the petitioner under Section 311 of the Cr.P.C. was allowed by the learned trial court for re-examination of the I.O.

9. It is argued further that several important witnesses like Ganour Kumar, Shivani and Bablu are required to be examined in this matter, because co-accused Pankaj Kumar categorically stated that he sold the SIM from his shop to one Ganour Kumar, but said Ganour Kumar was not made charge-sheeted witness. It is also pointed out that the name of Bablu transpired in FIR itself, who could be otherwise a best witness of the occurrence to link the circumstances, but he was also not made charge-sheet witness by the prosecution in this case. It is also submitted that Ganour Kumar himself stated during investigation that Shivani is his daughter who was using the mobile number 7361907855, but instead to



examine Shivani, the police falsified the existence of Shivani saying that the wife of petitioner was using the alleged mobile phone under the name of Shivani and as such, petitioner decided to file another petition under section 311 of the Cr.P.C. for examination of these witnesses as their examination is essentially required for just decision of this case.

10. It is submitted by Ms. Nirvikar that the right of fair trial cannot be taken away from the petitioner and, therefore, in all such events as mentioned aforesaid, the examination of prosecution witnesses may continue for years but fairly conceded that till now there is no such petition under section 311 Cr.P.C. before the learned trial court as to examine the aforesaid witnesses.

11. It is submitted by Ms. Nirvikar that right to **“speedy trial”** is a fundamental right of the petitioner as available under Article 21 of the Constitution of India, which appears compromised in view of aforesaid slow progress of trial. In support of her submission, Ms. Nirvikar relied upon the legal report of Hon’ble Supreme Court as available through **Hussainara Khatoon & Ors Vs. Home Secretary State of Bihar, [1980 (1) SCC 98]**.



Submission on behalf of the Informant

12. Contrary to the aforesaid submission, learned A.P.P. for the State duly assisted by Mr. Ashhar Mustafa, learned counsel appearing for the first informant, submitted that vide letter no. 68 dated 14.05.2026, out of 11 prosecution witnesses, Nine (9) witnesses have been examined and two witnesses namely, Chandan Pandey and Nunu Kumar Sharma are yet to be examined. Prosecution evidence was closed by the learned trial court. It was only on the petition of the petitioner, the learned trial court was pleased to allow the petition under section 311 of the Cr.P.C. for re-examination of the I.O. of this case i.e. PW-9.

13. It is argued that there is no petition till date under Section 311 of the Cr.P.C. for examination of Ganour Kumar, Bablu and Shivani, as submitted aforesaid either by the petitioner or by prosecution, therefore, it can be safely said that almost all prosecution witnesses now examined in this matter and there is no latches on the part of the State agency and, as such, argument advanced by the learned senior counsel for the petitioner *qua* violation of fundamental right of the petitioner, as submitted aforesaid, is not appears convincing.



14. Mr. Mustafa, learned counsel for the informant relied upon the legal report of Hon'ble Supreme Court as available through **Dablu Kujur Vs. State of Jharkhand** reported in **(2024) 6 SCC 758** in support of submission that bail should not be granted at fag end of trial, where in **para '3'**, Hon'ble Apex Court held that "In view of the above, we are not inclined to release the appellant on bail, more particularly, when the trial is at the fag end."

15. It is submitted by Mr. Mustafa that the conduct of petitioner categorically speaks that he made all possible efforts to defeat investigation and the trial. In support of his submission, Mr. Mustafa submitted that despite direction of Hon'ble Supreme Court to surrender immediately, ***vide order dated 29.02.2024 passed in Special Leave to Appeal (Crl.) No. 6907 of 2023 (arising out of impugned final judgment and order dated 04.05.2023 in CRLMN No. 3386/2019*** passed by the High Court of Judicature at Patna), petitioner was absconding for long one year and was not surrendered before the learned trial court and only after formation of Special Investigation Team (in short 'SIT') he was arrested and put behind the bar and, since then, he is in custody since 19.02.2025.



16. In this context, Mr. Mustafa pointed out that petitioner is under habit to change his lawyer frequently before the learned trial court, where for formulated reasons he changed his advocate making progress of trial slow. In this context, it is submitted that certainly petitioner cannot take advantage of his own wrong. It is also pointed out that petitioner earlier made an attempt to avail the benefit of bail or even provisional bail on frivolous reasons because as per his best information, there was no any such marriage of his daughter. The petitioner is making all possible efforts to come out from jail. This conduct of the petitioner suggest that upon bail, he may run away from the court proceeding and it would be difficult again to produce him before the court of law, who not even honoured the direction of Hon'ble Supreme Court and remains absconded for one year and was arrested only after formation of SIT.

Conclusion

17. Having heard learned counsel appearing on behalf of the parties and after going through the materials available on record and also taking note of the fact as the conduct of the petitioner who even not honoured the order of the Hon'ble Apex Court and despite direction, he remained



absconding for one year whereafter he was arrested, coupled with the fact that trial of this case is almost at its fag end, as discussed aforesaid, accordingly, prayer of regular bail of the petitioner stands rejected.

(Chandra Shekhar Jha, J)

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