

(2021) 04 PAT CK 0077

Patna High Court

Case No: Criminal Miscellaneous No. 23615 Of 2020

Kanhaiya Rai @ Kanhaiya Kumar
Rai

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: April 13, 2021

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 302
- Arms Act, 1959 - Section 27

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Nagendra Prasad Yadav, Md. Ataur Rahman, Ravi Prakash

Final Decision: Dismissed

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Nagendra Prasad Yadav No. 1, learned counsel for the petitioner; Mr. Md. Ataur Rahman, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State and Mr. Ravi Prakash, learned counsel for the informant.
3. The petitioner is in custody in connection with Khaira PS Case No. 36 of 2013 dated 30.05.2013, instituted under Sections 302/34 of the Indian Penal Code and 27 of the Arms Act, 1959.
4. This is the fourth attempt for bail by the petitioner as earlier such prayer was rejected by orders dated 29.08.2014, 18.01.2017 and 31.10.2018 passed in Cr. Misc. No. 6966 of 2014, Cr. Misc. No. 43371 of 2015 and Cr. Misc. No. 56405 of 2017, respectively.

5. On 24.02.2021, on prayer of learned counsel for the petitioner, a report was called from the Court below with regard to the status of the case from which it transpires that the doctor, who has examined the petitioner, remains to be examined.
6. The allegation is that the petitioner was the main assailant and he had opened fire on the deceased which is corroborated by the postmortem report.
7. Learned counsel for the petitioner submitted that the Court below be directed to expedite the trial.
8. Learned APP also contended that on previous occasions, the Court had gone into the merits and there is nothing new to consider the prayer for bail afresh.
9. Learned counsel for the informant submitted that the father and uncle of the petitioner are co-accused and absconding and not cooperating with the Court due to which the trial of the petitioner was bifurcated and now only the doctor has to be examined as the last prosecution witness and, thus, the Court may not grant any indulgence as the trial itself is at the final stages.
10. Having considered the matter, the Court is not inclined to grant bail to the petitioner.
11. Accordingly, the application stands dismissed.
12. However, as the doctor remains to be examined, the Court below is directed to ensure that the said witness is examined and further that the case is disposed off within three months from the date of receipt of a copy of this order.
13. The Superintendent of Police, Saran is directed to ensure that the remaining prosecution witness is examined on the date fixed by the Court.
14. Registry shall communicate the order to the Court below as well as the Superintendent of Police, Saran, forthwith.