
(2004) 08 PAT CK 0089

In the Patna High Court

Case No : Criminal Miscellaneous No. 8355 of 2004

Yogendra Jamadar

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 23-08-2004

Acts Referred:

Arms Act, 1959 — Section 27

Penal Code, 1860 (IPC) — Section 302, 307, 324, 34, 447

Citation : (2004) 4 PLJR 157

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Judgement

R.S. Garg, J.—Heard learned counsel for the parties. The present is repeat application of the applicant who is in jail since 29.4.1995 in connection with Sessions Trial No. 459/1995 arising out of Chandi (Tharthari) P.S. Case No. 56/95 under sections 447, 324/307/34 and 302 IPC and section 27 of the Arms Act and section 302 IPC.

2. While accepting the fact that the applicant has been named in the first information report as the assailant, the learned counsel for the petitioner submits that the last of the witnesses was examined in November, 1998 and since then but for issuing summonses etc., the trial court is not taking any interest in the matter and the Police/prosecuting agency is showing its absolute indifference in the matter. He submits that almost for a period of five years, the witnesses did not turn up and there is no likelihood of early disposal of the trial, the applicant who remained in jail for last nine years, deserves to be released on bail.

3. This Court required the Director General of Police to give details and address of the then Investigating Officer, Indramani Singh. The D.I.G. of Police has submitted his report showing that the said Indramani Singh is resident of village Resalpurdih, P.S. Shahpur Patori, P.O. Bhagra, District Samastipur. The Director-in-Chief, Health Services has also submitted his report that Dr. Ram Briksh Prasad since after retirement, is residing in village Chandi, P.S. Chandi, District

Nalanda. For the other doctor, Dr. A.K. Choudhary, it is submitted by him that as his full name was not shown in the order it is not possible for them to give details of the said officer.

4. Taking into consideration the predetention of the applicant and that but for two doctors and the I.O., every eye witness has been examined, I grant this application.

5. Let petitioner Yogendra Jamadar be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each-S.T. No 459 of 1995 arising out of Chandi (Tharthari) P.S. Case No. 56 of 1995, to the satisfaction of the IIIrd Additional Sessions Judge, Hilsa, Nalanda.

6. Let the trial court issue necessary summonses to the witnesses on the given address. For Dr. A.K. Choudhary, the trial court shall require the concerned Superintendent of Police to make inquiry and bring complete details on record so that full name of Dr. A.K. Choudhary is submitted and thereafter his details are sought by the trial court from the office of the D.G.P.

7. Let me remind the Police/prosecuting agency that when the Court issues summonses then it is the duty of the Police agency to serve the summonses and submit the report before the Court. They cannot sit over the summonses and refuse to serve the report in the court. When they arrest a person then they infringe personal liberty and in a case where they show absolute indifference and apathy to the direction of the court then such a person can always level allegations against the Police and the prosecution that they are deriving sadistic pleasure by the long detention of the accused in jail.

8. Let me also remind the trial court that if the service report of the summonses, bailable warrant/non-bailable warrant of arrest is not submitted by the concerned Police Officer in the Court then he is required to make a complaint to the Superintendent of Police or the Director General of Police or the head of the concerned office and in case the said head of the concerned office does not respond then such Judicial Officer can always refer the matter to the High Court to draw a contempt proceeding against such officer. Let a copy of this order be sent to the Director-in-Chief of Health and the Director General of Police to remind them of their duty and tell them that the cases are being adjourned because of inefficiency of their officers and because of non-availability of complete details and addresses of such officers.