

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17563 of 2015

Arising Out of PS.Case No. -121 Year- 2007 Thana -CHIRAIYA District-
EASTCHAMPARAN(MOTIHARI)

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Bineshwar Prasad @ Bineshwar Prasad Mahto @ Bineshwar Mahto Son of
Ram Kishore Mahto

.... Petitioner/s

Versus

1. The State of Bihar.

2. Atish Kumar Mahto Son of Ram Subhash Mahto

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar, Advocate

For the Opposite Party/s : Ms. Indiar Kumari, (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 15-05-2015

Heard learned counsels for the petitioner and the
State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 324, 325, 307, 379/34 of the Indian Penal Code after being summoned to face trial under Section 319 Cr. P.C. vide order dated 10.02.2010 passed in Sessions Trial No. 548 of 2008 by the learned Additional Sessions Judge-IX, East Champaran at Motihari.

The petitioner was named in the FIR with specific accusation of making assault with '*farsa*' to the informant but the petitioner was not sent up for trial. Subsequently, the petitioner has been summoned in exercise of jurisdiction under

section 319 Cr. P.C. to face trial.

The prayer for anticipatory bail of the petitioner was rejected by the learned Sessions judge, after being summoned under section 319 Cr.P.C., vide ABP No. 1335 of 2010 on 04.10.2010, hence, the petitioner was aware about his being summoned in 2010 itself.

It is submitted by learned counsel for the petitioner that the petitioner is a government servant and he was not properly instructed, as a result, could not made the prayer for bail before this court. Moreover, the informant has retracted from initial version and has filed a petition to that effect before the learned court below, the same has been brought on record as annexure-5 to the petition.

This court is not inclined to accede to the prayer of the petitioner since the order for summoning the petitioner was passed on 10.02.2010 and for five years the trial was held up due to apathetic attitude of the petitioner.

Let the learned Court below consider the prayer for regular bail of the petitioner and disposed of preferably on the same day, if the petitioner surrenders within a period of six weeks in connection with Chairaiya P.S. Case No. 121 of 2007, pending before the 5th Additional Sessions Judge, Motihari, East

Champaran, keeping in view of the fact that the petitioner was not sent up for trial and if he undertakes to appear regularly. Moreover, the impugned order does not reflect any deliberation of evidence which persuaded the learned trial court to summon the petitioner.

With the above observation, this application is, accordingly, disposed off.

(Dinesh Kumar Singh, J)

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