

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38929 of 2015

Arising Out of PS.Case No. -28 Year- 2015 Thana -MADHEPUR District- MADHUBANI

1. Mahesh Mahto  
2. Ganesh Mahto Both S/o Asharfi Mahto Resident of Village Prasad, P.S. Madhepura, District Madhubani.  
3. Satto Mandal S/o Late Umesh Mandal Resident of Village Nawada, P.S. Madhepura, District Madhubani.  
4. Upendra Kamat S/o Asharfi Kamat Resident of Village Prasad, P.S. Madhepura, District Madhubani.  
5. Shivji Mahto S/o Late Misri Mahto Resident of Village Prasad, P.S. Madhepura, District Madhubani.  
6. Purnanand Jha @ Puranand Jha S/o Late Shyamanand Jha Resident of Village Rahua Sangram, P.S. Bheja, District Madhubani.  
7. Santosh Kumar Jha @ Santos Kumar Jha S/o Harsh Nath Jha  
8. Dilip Kumar Jha S/o Kalikant Jha  
9. Dhanik Lal mahto S/o Yogi Mahto  
10. Lal Mohan Jha S/o Late Shashidhar Jha Resident of Village Prasad, P.S. Madhepura, District Madhubani.  
11. Ashok Kumar Jha @ Ashok Jha @ Shripati Jha S/o Balbhadra Jha Resident of Village Laufa, P.S. Lakhnaur, District Madhubani.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarvesh Kumar Singh

For the Opposite Party/s : Mr. Smt. Sucheta Yadav(App)

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL  
ORAL ORDER

2      23-09-2015      Heard learned counsel, Mr. Sarvesh Kumar Singh for the petitioners and learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Madhepur P.S. Case No. 28/2015 registered for offences punishable under Sections 147, 148, 149, 323, 307, 332, 338, 379, 353, 354 (A), 435, 504, 427/120 (B) of the Indian Penal Code and

Section 27 of Arms Act.



The prosecution case as per the written report of the B.D.O., Madhepur is that he received an order from the District Magistrate, Madhubani to remove encroachment/construction of Vijay Ashram, situated at Khesra No. 5753 at Laxmipur Chowk for which a notice in this regard was already been served upon the Secretary of the said Ashram. Therefore, in compliance of the order, the B.D.O. proceeded for the action along with several police personnel of different police stations and executive officials to remove the said encroachment. Several people of the locality were present there from before, who protested the movement of police however, they were pacified and the removal of encroachment started at about 11.30 A.M.

It has further been stated that subsequently, the accused persons, named in the F.I.R. alongwith 500 unknown persons where the ladies and children were also present, arrived with arms and ammunitions, started pelting stones, brick batting and fired upon the police and damaged the vehicles of administration. It is also alleged that the mob torched the JCB machine and loss has been assessed in the occurrence to the tune of about rupees twenty five lakhs. It has further been alleged that the police officials are said to have been injured in the alleged occurrence and modesty of

lady police had been outraged.

It has been submitted by the learned counsel for the petitioners that the allegations against these petitioners are general and omnibus and it was on the basis of the encroachment drive that this incident had occurred in which there was a mob of about 500 people.

Learned counsel for the petitioners has also brought to notice the order passed by this Court in writ application bearing CWJC No. 5405/99 filed by one Satish Chandra Jha by which an interim order dated 12-03-2015 was passed wherein this Court had directed that the encroachment be removed. But later on an Interlocutory Application had been filed by one Vijay Kumar Jha claiming to be the Secretary of the Vijay Ashram and this Court while allowing the Interlocutory application had directed that no demolition be under taken by order dated 29.04.2015.

It has been submitted by the learned counsel for the petitioners that it was on the basis of this encroachment drive that the incident took place and the allegations are on mob which can not be attributed to them only.

Under such circumstances, in case of arrest or surrender within a period of four weeks before the Court below, the above named petitioners, be enlarged on bail on furnishing bail

bonds of Rs. 10,000/- ( ten thousand only)each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Jhanjharpur in connection with Madhepur P.S.Case No. 28/2015, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

However, it has been submitted that the petitioner No. 1, namely, Mahesh Mahto and petitioner No. 3 Satto Mandal, both are accused in some other cases being Madhepur P.S. Case No. 264/2001 and Madhepur P. S. Case No. 16/2003, respectively.

It is made clear that if these two petitioners, i.e. petitioner No. 1 Mahesh Matho and petitioner No. 3, Satto Mandal are found to be involved in cases of similar nature aforementioned in future, the learned Court below will be at liberty to cancel the anticipatory bail of the petitioner Nos. 1 and 3 without being prejudiced with this order.

**(Nilu Agrawal, J)**

Sudha/-

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