

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15372 of 2016

Arising Out of PS.Case No. -17 Year- 2016 Thana -SONBERSA District- SITAMARHI

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Umesh Mahto, S/o Late Chandeshwar Mahto, Resident of Village-
Sonbarsa, P.S.- Sonbarsa, Dist- Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate
Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Renu Kumari(APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

4 24-05-2016 Heard learned counsel for the petitioner and

learned APP for the State.

Petitioner is languishing in jail since 05.02.2016
in connection with Sonbarsa P.S. Case No. 17/16 for offences
alleged under Section 302/115/34 of the Indian Penal Code and
under Sections 25(1-b)/26/35 of the Arms Act.

The prosecution case, as lodged by informant
P.S.I. Sanjeev Kumar, is that on receiving secret information when
he along with police force reached near Ring Bandh the
miscreants tried to flee away, but five miscreants along with the
petitioner were overpowered and on search one live cartridge and
one mobile was recovered from the possession of the petitioner.
Other fire-arms and mobiles were also recovered from the

possession of other co-accused.

It has been submitted by the learned counsel for the petitioner that he is innocent, has committed no offence and nothing incriminating has been found from the conscious possession of the petitioner except his mobile phone and one live cartridge. He submits that the petitioner has been apprehended by the police sitting near the bridge and it is only on the basis of confessional statement of co-accused Mukesh Kumar that plot of killing the Mukhiya Sanjay Kumar has come to light. He submits that the allegation upon him is due to local village politics and that First Information Report has been registered on 03.02.2016 at 7.30 P.M. but the petitioner has been produced before the Magistrate on 05.02.2016 although 04.02.2016 was also a working day. It has further been submitted that petitioner is ready to abide by the conditions and will not tamper with the evidence or abscond.

However, learned APP for the State submits that that the petitioner was apprehended by the raiding party and his brother Mukesh Kumar in his confessional statement has stated about plot of murder of Mukhiya Sanjay Kumar. He further submits that the petitioner does not have a clean antecedent as two cases are pending against him, hence, opposes the prayer for bail.

Be that as it may, since the petitioner was not

found committing any overt act and on the confessional statement of the co-accused Mukesh Kumar he is alleged to be plotting the murder of the then Mukhiya, let petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Sonbarsa P.S. Case No. 17/16. However, it is made clear that petitioner will appear before the police/ court as and when required and failure to appear on two consecutive dates will be liable for cancellation of his bail bonds. It is also made clear that since the petitioner does not have clean antecedent and some cases are pending against him, if the petitioner in future indulges in a case of similar nature, his bail bonds is liable to be cancelled by the learned court below without being prejudiced with this order.

Rajesh/-

(Nilu Agrawal, J.)

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