

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40498 of 2015

Arising Out of PS.Case No. -139 Year- 2014 Thana -ARER District- MADHUBANI

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1. Bhogendra Mahto Son of Dani Lal Mahto, Resident of Village - Jamuari,
P.s. - Arer, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh

For the Opposite Party/s : Mr. Ashok Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA
ORAL ORDER

4 04-01-2016 Heard learned counsel for the petitioner, learned

counsel for the informant and learned A.P.P. representing the

State.

The petitioner seeks bail in connection with Arer P.S.

Case No. 139 of 2014 registered for the offences punishable under

Sections 148, 149, 323 and 302 of the Indian Penal Code.

Allegedly Hari Mahto, the father of the informant had

gone to take tea at Arer Chowk and then nine F.I.R. named

accused persons including the petitioner, due to previous enmity,

surrounded him and assaulted brutally, resulting, during treatment

the father of the informant died.

Submission is of false implication due to previous

enmity. The independent witnesses vide paras 6, 17, 26 and 27 of



the supplementary case diary, have not stated the name of the petitioner regarding his presence at the time of occurrence but the learned Additional Sessions Judge, Vth, Madhubani after referring those paras, has been pleased to reject the prayer of bail, resulting the petitioner is suffering in custody since 23.05.2015 and, as such, he deserves sympathetic consideration. Chargesheet has already been submitted and there is no chance of tampering with the prosecution evidence.

The learned A.P.P. duly assisted by learned counsel for the informant opposes the prayer of bail by submitting that the informant and other witnesses have stated the name of the petitioner also regarding his presence and participation in the crime and further prayer of bail of other co-accused namely, Ram Chandra Kushwaha, Kailesh Kushwaha and Naresh Kushwaha has already been rejected by another co-ordinate Bench of this Court.

In the facts and circumstances stated above, considering that independent witnesses namely, Kari Mahto, Baidhnath Mahto, Raj Kumar Mahto and Md. Kishmat vide paras 6, 17, 26 and 27 of the supplementary case diary have not stated the name of the petitioner and, as such, considering his detention and further that there is no chance of tampering with the prosecution evidence, the petitioner, above named, is directed to

be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Learned C.J.M., Madhubani arising out of Arer P.S. Case No. 139 of 2014 subject to the conditions that one of the bailors must be near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

sushma/-

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(Jitendra Mohan Sharma, J)