

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.41979 of 2016**

Arising Out of PS.Case No. -138 Year- 2015 Thana -RAJNAGAR District- MADHUBANI

Birbal Sahani @ Birbal Kumar Sahani, Son of Late Fakir Sahani, Resident of Village- Parsauni, P.S.- Bisfi, District- Madhubani.

.... .... Petitioner/s

Versus

The State of Bihar

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

**Appearance :**

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate

For the Opposite Party/s : Mr. Upendra Kumar, APP

**CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL**  
**ORAL ORDER**

3 22-11-2016

Heard learned counsel for the petitioner and

learned APP for the State.

Petitioner is languishing in custody since 26.07.2016 in connection with Raj Nagar P.S. Case No. 138/15 for offences punishable under Sections 341, 323, 324, 307 of the Indian Penal Code and Sections 45, 52 of the Prisoners Act, 1984.

The prosecution case, as lodged by the informant, is that in the night of 11.07.2015 at about 2.30 to 3.00 A.M. in the juvenile ward of jail, one under-trial prisoner Ram udgar Mahto was found smeared with blood and was treated by the jail doctor. At the same time another under-trial prisoner Birbal Sahni was also found injured and he was also treated. Thereafter both the under-trial prisoners were sent to Sadar Hospital for better treatment. During course of investigation it came to light that the petitioner caused injury to Ram Udgar Mahto.

It has been submitted by the learned counsel for the petitioner that he is innocent and has falsely been implicated in the aforesaid case. He submits that the allegation of cutting the throat of another prisoner Ram Udgar Mahto is false, as initially he was neither named in the First Information Report nor the said victim prisoner in his statement before the police has alleged that the petitioner has committed the aforesaid offence and the allegation is based merely on suspicion. He further submits that the petitioner has been acquitted in another case by the learned 1<sup>st</sup> Addl. Sessions Judge on 16.05.2016 having been in custody in the said case from 19.03.2016 to 20.5.2016.

However, learned APP for the State submits that during investigation the petitioner has been found to have committed the said offence, hence, opposes the prayer for bail.

Having perused the case diary, since the allegation is based only on suspicion, let petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Vikash Jha, learned Judicial Magistrate, Madhubani in connection with Raj Nagar P.S. Case No. 138/15.

**(Nilu Agrawal, J.)**

Rajesh/-

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