

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55462 of 2015

Arising Out of PS.Case No. -212 Year- 2015 Thana -KESARIYA District-
EASTCHAMPARAN(MOTIHARI)

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1. Rabindra Thakur Son of Rajdeo Thakur, Resident of village- Chakdariya,
P.S.- Kesariya, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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With
Criminal Miscellaneous No.51957 of 2015

Arising Out of PS.Case No. -212 Year- 2015 Thana -KESARIYA District-
EASTCHAMPARAN(MOTIHARI)

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1. Rajdeo Thakur son of Late Jappi Thakur, Resident of village-
Chakdariya, P.S.- Kesariya, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.55462 of 2015)

For the Petitioner/s : Mr. Sunil Kumar No.Iii

For the Opposite Party/s : Mr. Narendra Kr. Singh(App)

(In Cr.Misc. No.51957 of 2015)

For the Petitioner/s : Mr. Sunil Kumar No.Iii

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

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 05-02-2016 Heard the learned counsel, Mr. Sunil Kumar No.III on

behalf of the petitioners, Rabindra Thakur, petitioner in Cr. Misc.

No.55462 of 2015 and Rajdeo Thakur, petitioner in Cr. Misc.

No.51957 of 2015 who are in custody in Kesariya P.S. Case

No.212 of 2015 under Sections 341, 323, 307, 379, 504, 325, 302

and 34 I.P.C.

The informant lodged the F.I.R. alleging that while his father was returned after taking amount of loan, in the way, these petitioners with other co-accused persons surrounded the father of the informant and on the order of Rajdeo Thakur, Rabindra Thakur gave hammer blow and Deokumar Thakur assaulted with iron rod. The father of the informant was taken to hospital and during the course of treatment, father died on 31.07.2015.

The learned counsel for the petitioner submitted that although in the F.I.R. the informant has described in detail the occurrence but he is not the eyewitness to the occurrence as nowhere in the F.I.R. or in his restatement, he has stated that he was present there. The learned counsel further submitted that the other witnesses examined under Section 161 Cr.P.C. have described the occurrence in other way i.e. the occurrence took place in the village.

On the other hand, the learned A.P.P. vehemently opposed the prayer of bail. According to the learned A.P.P., the other witnesses whose statements have been recorded by the police under Section 161 Cr.P.C. are all hearsay witnesses.

Perused the case diary. In the restatement, the informant has fully described in great detail about the occurrence. The other

witnesses examined by the police in paragraph 11, 12, 13, 14 etc. are only the hearsay witnesses and not eyewitness.

As stated above, from perusal of the F.I.R. as well as the restatement nowhere it is mentioned that the informant has learnt this occurrence from anybody. From the description of the occurrence given by the informant, it is clear that he appears to be an eyewitness.

So far the submission of the learned counsel that he is not an eyewitness, is a matter that can be seen at the time of trial. At this stage, the petitioners are not entitled to grant of bail.

Thus, both the bail applications are hereby rejected.

(Mungeshwar Sahoo, J)

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