

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.26870 of 2016**

Arising Out of PS.Case No. -1 Year- 2016 Thana -SAKARPUR District- DARBHANGA

Dhrub Kumar Chaudhary, S/o Sushil Chaudhary, Resident of village-  
Lagma, P.S- Sakatpur, District- Darabhanga.

.... .... Petitioner/s

Versus

The State of Bihar

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

**Appearance:**

For the Petitioner/s : Mr. Birendra Kumar Sinha, Sr. Advocate  
Mr. Kripa Nand Jha, Advocate.

For the Opposite Party/s : Ms. Anita Kumari, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**  
**ORAL ORDER**

3 01-09-2016 Heard both sides.

The petitioner apprehends his arrest in Sakatpur P.S.  
Case No. 01 of 2016 registered under Section 302, 120(B), 34 of  
the Indian Penal Code.

The informant Mohan Choudhary, brother-in-law of  
the deceased Madan Mohan Choudhary, lodged the case after  
recovery of the dead body of Madan Mohan Choudhary alleging  
therein that on account of old enmity, he suspects that the  
petitioner and others might have killed Madan Mohan Choudhary  
at the instigation of Prabhakar Choudhary.

Sri Birendra Kumar Sinha, learned Senior Counsel  
for the petitioner, submits that there is no eye witness of the

occurrence. The police after investigation submitted final form finding the case false against the petitioner but the learned court below took cognizance after differing with the finding of the investigating officer although there is no material to take cognizance against the petitioner.

On the other hand, learned counsel for the informant and learned A.P.P. have vehemently opposed the prayer for anticipatory bail and submitted that the widow of the deceased, in Para 46 of the Case Diary, alleged that there was old enmity. It is admitted that the wife of the deceased is not an eye witness and she also raised only suspicion against the petitioner.

Considering the facts that the name of the petitioner figured only on account of suspicion and the police after investigation submitted final form finding the case false against the petitioner although the court below took cognizance but the fact remains that except suspicion there appears no material against the petitioner in the case diary, the above named petitioner, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt / production of a copy of this order, is directed to 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 the

learned A.C.J.M., Darbhanga in Sakatpur P.S. Case No. 01/2016,  
subject to the conditions as laid down under Section 438(2) of the  
Code of Criminal Procedure.

Dilip/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

**(Prabhat Kumar Jha, J)**