

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6107 of 2016

Arising Out of PS.Case No. -88 Year- 2003 Thana -BENIPATTI District- MADHUBANI

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Awadh Kishore Bhandari @ Awadh Bhandari, S/o Late Jai Narayan Bhandari, Resident of Village – Arer Tole Sinuara, Police Station – Arer, District – Madhubani.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukund Mohan Jha

For the Opposite Party/s : Mr. Chandra Bhushan Prasad(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 14-09-2016

Heard learned counsels for the petitioner and the State.

The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Sections 447, 147, 148, 149, 341, 323, 324, 302 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the fard-beyan of the informant, Harkhit Kamat, recorded on 02.05.2003, alleging therein that since last several years litigation is going on between the family of the informant and Nawal Kishore Bhandari being the agnate of the informant in the background of serious land dispute. On 28.04.200, when the informant was coming to his native village from Delhi, the petitioner, Awadh Kishore Bhandari and



the co-accused, Nawal Kishore Bhandari assaulted the informant by fists and slaps and drove him out from the village. The co-accused, Nawal Kishore Bhandari, caused teeth bite on the arm of the informant. It is further alleged that on 02.05.2003 at 5.00 A.M., the informant and his father were sitting at the door, when the petitioner and co-accused along with others started assaulting the father of the informant with Khukhari and Farsa as a result the father got injured and fell down and subsequently succumbed to the injuries.

Learned counsel for the petitioner submits that the brother of the petitioner, Nawal Kishore Bhandari was killed at the hands of the informant side and they also actually killed the father of the informant.

The petitioner's case being Benipatti P.S. Case No. 88 of 2003 was lodged at the earlier point of time. Moreover, co-accused, Keshaw Narayan Bhandari has been granted bail vide order dated 07.07.2008 passed in Cr. Misc. No. 15255 of 2008 by a co-ordinate Bench of this Court. The petitioner could not come to this Court since his arrest was stayed by the investigating agency. It is further submitted that a previous application for bail was rejected vide order dated 29.06.2005 by this Court with an observation "at present" and the trial was

directed to be expedited but till date even charge has not been framed. The petitioner has no criminal antecedents, statement to that effect has been made in paragraph 3 of the petitioner. The accusation has been levelled in the background of serious land dispute.

This Court vide order dated 24.04.2016 called for report from the learned trial court in regard with the stage of the trial and the period within which the trial is likely to be concluded. The report of the Incharge Additional District Judge-V, Madhubani, dated 04.08.2016, reflects that charge has not been framed, the concerned court is vacant.

Considering the fact that the report of the learned Incharge Additional District Judge-V, Madhubani dated 04.08.2016, reflects that even the charge has not been framed coupled with the statement that the petitioner has no criminal antecedent and the co-accused has been granted bail by a co-ordinate Bench of this Court, let the above named petitioner, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Incharge Additional District Judge-V, Madhubani in connection with Sessions Trial No. 197 of 2015 arising out of Benipatti/Arer P.S. Case No. 88 of 2003.

The learned trial court will be at liberty to
cancel the bail bonds of the petitioner, if he defaults for two
consecutive occasions.

(Dinesh Kumar Singh, J)

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