

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12066 of 2017

Arising Out of PS.Case No. -117 Year- 2016 Thana -RAXAUL District-
EASTCHAMPARAN(MOTIHARI)

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Binda Mukhiya @ Binda Sah S/o Jai Ram Mukhiya Resident of Village-
Kharkatwa, P.S.-Palsanwa, District-East Champaran.... Petitioner

Versus

The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Tiwary

For the Opposite Party/s : Mr. Sri Aditya Narayan Singh 1

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

3 27-04-2017 Heard learned counsel for the petitioner and learned
counsel representing the State.

The petitioner seeks bail in connection with Raxaul P.S.
Case No. 117 of 2016 registered for the offences punishable under
Sections 363, 365/34, 302, 120B of the Indian Penal Code.

Allegedly, Raj Kishore Kumar @ Botla, the son of the
informant, aged about 7 years along with other children was
playing in the orchard situated adjacent to the flour mill of Pawan
Kumar Mishra and thereafter, Raj Kishore Kumar @ Botla was
kidnapped from there by Sudhir Mishra, Gudiya Mishra, Pawan
Kumar Mishra and the petitioner. During investigation the dead
body of Raj Kishore Kumar @ Botla was found.

Submission is of false implication and that the informant is
not an eye witness, there is no eye witness of the occurrence, no



one has seen the petitioner in the company of the deceased, the boy who was playing with the deceased has been examined vide paragraph 140 of the case diary who has named only Sudhir Mishra and the petitioner. Co-accused Pawan Kumar Mishra has been allowed bail by another co-ordinate Bench of this Court vide Cr. Misc. No. 1616 of 2016 on 08.02.2017 and the petitioner having no criminal antecedent is suffering in custody since 16.06.2016 and as such the petitioner deserves sympathetic consideration.

Learned APP opposes the prayer of bail by submitting that the witnesses in paragraph 24, 25, 34, 98, 140, 141 and 143 of the case diary have stated that the deceased, the son of the informant, along with other children was playing in the orchard situated adjacent to the flour mill of Pawan Kumar Mishra and at that time Sudhir Mishra and the petitioner handed over Rs. 100/- to Raj Kishore Kumar @ Botla the son of the informant for purchasing biscuit and shikhar Gutka, thereafter, Sudhir Mishra and the petitioner took biscuit from him and distributed the same amongst the children, so the petitioner was last seen with the deceased.

In the facts and circumstances stated above, considering that the eye witness who was playing with the deceased has not stated the name of the petitioner, 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 learned Sub-Divisional Judicial Magistrate, Raxaul at Motihari, East Champaran in connection with Raxaul P.S. Case No. 117 of 2016, subject to the conditions that one of the bailors must be a 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.

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(Jitendra Mohan Sharma, J)

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