

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.51682 of 2016**

Arising Out of PS.Case No. -444 Year- 2016 Thana -MARHAURA District- SARAN

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Birendra Kunwar, son of Late Kamla Kunwar, Resident of Village-  
Rampur, P.S.- Marhowrah, District- Saran.

.... .... Petitioner/s

Versus

The State of Bihar

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

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**Appearance :**

For the Petitioner/s : Mr. Nilesh Kumar, Advocate  
For the Opposite Party/s : Mrs. Sahin Begam, APP

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

5      12-04-2017                      Heard learned counsel for the petitioner and the  
learned A.P.P. for the State.

Petitioner is languishing in judicial custody since  
24.09.2016 in connection with Marhowrah (Gaura O.P.) P.S. Case  
No. 444 of 2016 registered for the offence punishable under  
Sections 25(1-b)A, 26 and 35 of the Arms Act, Sections 3/ 4 of the  
Explosive Substances Act and Sections 47 and 54 of the Bihar  
Excise (Amendment) Act, 2016.

The prosecution case is that on tip-off, police raided  
the house of the petitioner and from the husk near the house seized  
two country made pistols, four live cartridges and two bombs as  
well as four litres of county made wine.



It has been submitted by the learned counsel for the petitioner that he is innocent, nothing has been recovered from his conscious possession and aforesaid articles, which had been seized near the house of the petitioner, were implanted by somebody else. He further submits that Mukhiya of the said village, who is on inimical terms with the petitioner, had implanted the aforesaid articles in the husk near the door of his house, which is surrounded by bushes, as is evident from paragraph 10 of the case diary. He further submits that there is civil dispute between the parties and a number of civil and criminal cases are pending between them.

However, learned A.P.P. for the State submits that the petitioner is named in the First Information Report, hence, opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, since charge-sheet has already been submitted and there is no chance of tampering with the prosecution evidence, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-II, Saran in connection with with Marhowrah (Gaura O.P.) P.S. Case No. 444 of 2016, subject to the condition that one of the bailors would be close relative and



other bailor would be a person, who has sufficient immovable properties within the jurisdiction of the concerned police station/ Court and subject to further condition that petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence and shall appear in the learned Court below, as and when directed.

With these observations and directions, this application stands allowed.

**(Nilu Agrawal, J.)**

Arjun/-

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