

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15847 of 2016

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

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Matvar Chaudhary @ Matwar Chaudhary Son of Late Pach Kauri
Chaudhary Resident of Village - Arer, District - Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinod Kumar

For the Opposite Party/s : Mr. C.Jawahar(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 15.02.2017

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 members of the informant and Nawal Kishore Bhandari
being the agnate of the informant in the background of serious
land dispute. On 30.04.2003 at 10.00 A.M. in the morning the
informant came to village home when co-accused Nawal Kishore



Bhandari and four other accused persons named in the FIR including the petitioner came to the father of the informant when Nawal Kishore Bhandari and Awadh Kishore Bhandari assaulted the informant with fists and slaps and driven him out from the village. Co-accused Nawal Kishore Bhandari caused teeth bite on the arm of the informant and the informant went to Madhubani at his cousin's house. It is further alleged that on 01.05.2003 at 7.00 P.M. in the night the informant along with his other agnates named in the FIR again back to the village home. On 02.05.2003 at 5.00 A.M., the other agnates of the informant also arrived and on the same very day at 5.30 A.M. in the morning while the informant and his father were sitting at the door of his agnate Babulal Kamat, when accused Nawal Kishore Bhandari and Awadh Kishore Bhandari arrived there and asked informant's father as why informant and others have come to in village when they were asked not to enter the village. After sometime the accused persons arrived there armed with Khukhari, Farsa and lathi when Nawal Kishore Bhandari and Awadh Kishore Bhandari alleged to have started assaulting the father of the informant with Khukhari and Farsa as a result father of the informant fell down on the ground, thereafter co-accused Birendra Bhandari and Keshav Bhandari started assaulting the father of the informant. Other accused



persons also assaulted him. Subsequently, the father of the informant succumbed to the injury.

It is submitted by learned counsel for the petitioner that the brother of co-accused Nawal Khishore Bhandari was also killed at the hands of the informant side and they actually killed the father of the informant also. It is further submitted that there is no specific accusation of assault against the petitioner. The petitioner's case being Benipatti P.S. Case No. 88 of 2003 was lodged at 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 when there is specific accusation of assault against him. The petitioner could not move the Court for bail since his arrest was stayed by the investigating agency.

Earlier the prayer for bail of the petitioner was rejected vide order dated 29.06.2015 passed in Cr. Misc. No. 13416 of 2015 with observation at present.

It is submitted by learned counsel for the petitioner that the charge has still not been framed, though, statement has been made in paragraph no. 16 of the petition that there is no progress in trial. However, order dated 15.09.2015 of the learned court below reflects that the charge has not been



framed and considering the fact that there is no progress in the trial co-accused Awadh Kishore Bhandari has been granted bail by this Court vide order dated 14.09.2016 passed in Cr. Misc. No. 6107 of 2016.

In view of the fact that the co-accused have been granted bail and there is no likelihood of conclusion of trial in near future, 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 Chief Judicial Magistrate, Madhubani in connection with Benipatti (Arer) P.S. Case No. 88 of 2003.

The learned court below 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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