

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.114 of 2017

Arising Out of PS.Case No. -208 Year- 2010 Thana -SUGAULI District-
EASTCHAMPARAN(MOTIHARI)

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Bhikhari Mukhiya, S/o late Sudhan Mukhiya, resident of Village-
Bariyarpur, Bin toli, P.S. Nautan, District- West Champaran.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate.

For the Opposite Party : Smt. Veena Kumari Jaiswal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

3 21-04-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is languishing in custody since 23.07.2010
in connection with Sugauli P.S. Case No. 208 of 2010 for the
offences instituted under Sections 489(B), 489(C), 414, 120(B) of
the IPC and 25(1-B)a, 26 and 35 of the Arms Act.

The prosecution story, in brief, is that four persons were
found travelling in a vehicle. The police stopped the vehicle and
on individual search of the persons the petitioner was found in
possession of a pistol loaded with cartridge and was also in
possession of additional ammunition. As regards three others, they
were having fake currency notes of different denominations as
indicated in the written report.

Earlier two bail applications of the petitioner were
rejected by a co-ordinate Bench of this Court vide Cr. Misc. No.



41318 of 2010 dated 15.03.2011 and 12039 of 2015 dated 08.04.2015. This is third attempt for bail on behalf of the petitioner.

A report has been called for from the court below regarding the stage of the case. It has been reported that the charge has been framed on 08.03.2017 and the case is running pending for examination of the witnesses.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 23.07.2010 i.e., for approximately six years and nine months. As per prosecution case, one country made loaded pistol alongwith one live cartridge is said to have been recovered from possession of other co-accused. Fake currency notes are alleged to have been recovered. There is no allegation of tampering of the witnesses alleged against the petitioner. There is no compliance of Section 100 Cr. P.C. in the present case. The other co-accused persons have been granted bail by another co-ordinate Benches of this Court vide Cr. Misc. Nos. 25208 of 2012, 44780 of 2011 and 2743 of 2011.

A report from the Director, Forensic Science Laboratory, Bihar, Patna, was also called for and which has been received and the same has been opened in the Court. The forensic science report is as follows:

“Examinations of the notes of denomination of Rs. 1000/-(One thousand) marked A1 to A14, Rs. 500/-(Five hundred) marked B1 to



B16, Rs. 100(One hundred) marked C1 to C2 and Rs. 20(Twenty) marked 'D' reveal that all the notes marked A1 to A4, B1 to B16, C1 to C2 and D described above are genuine Indian Currency Notes.”

Admittedly, no fake currency notes as per Forensic Science Laboratory report are said to have been recovered in the present case.

On behalf of the State, it has been submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner above named, be released 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 C.J.M., East Champaran at Motihari in connection with Sugauli P.S. Case No. 208 of 2010.

Let the F.S.L. report be returned back to the office of the Director, Forensic Science Laboratory, Bihar, Patna, in a sealed cover.

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(Sudhir Singh, J)

