

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56825 of 2018

Arising Out of PS. Case No.-54 Year-2014 Thana- PAHARPUR District- East Champaran

Amar Mahto S/o Late Mahadev Mahto, R/o Vill.- Balus Briti Tola, P.S.-
Paharpur, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar
For the Opposite Party/s	:	Smt. Reena Sinha
For the Informant	:	Mr. Navin Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 03-10-2018 Heard learned counsels for the petitioner, informant and the State.

The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Sections 147,148,149,341,323,302,324 and 307/34 of the IPC and Section 27 of the Arms Act.

The prosecution case is that the accused persons came variously armed and forbade the informant's side to construct hut. Subsequently, co-accused Mani Prasad caught hold the father of the informant and co-accused Binod Prasad assaulted with farsa on the head of the informant's father but he received injuries below the left eye and consequently the father of the informant fell down when co-accused Bindhyachal Mahto



resorted to fire in the air and the petitioner and co-accused Upendra Mahto also assaulted him with stones. Subsequently, the father of the informant succumbed to the injuries.

Earlier, considering the nature of accusation and the criminal antecedent of the petitioner since he is accused in seven other cases, prayer for bail was rejected vide order dated 28.4.2015 passed in Cr. Misc. No. 33433 of 2014. Second time, prayer of the petitioner for bail was rejected vide order dated 28.3.2018 passed in Cr. Misc. No. 18905 of 2016 on the submission of learned counsel for the informant that the trial is on the verge of conclusion as after closer of evidence, argument is going on. Relevant portion of the order reads as follows:

“Learned counsel for the informant submits that the trial is on the verge of conclusion as after closure of evidence the argument is going on.”

It is submitted by learned counsel for the petitioner that the petitioner is languishing in custody since 18.4.2014 and the petitioner is aged about 74 years. The specific accusation of assault with farsa is against co-accused Binod Prasad and in the background of a dispute with regard to construction of hut, the occurrence took place. It is further submitted that the petitioner is accused in seven other cases but he on bail in six cases and in



one case final form has been submitted.

This Court, vide order dated 12.9.2018, called for a report from the learned trial court. The report of the learned trial court reflects that the matter was never posted for argument. However, three injured witnesses and SI, Uma Shankar Singh who prepared the inquest report have been allowed to be produced as witnesses on the application made by the informant. Hence, it appears that earlier prayer for bail was rejected by this Court vide order dated 28.3.2018 passed in Cr. Misc. No. 18905 of 2016 on a wrong submission made by learned counsel for the informant that the trial is on the verge of conclusion as after closer of evidence the trial is at argument stage, which is contrary to the report of the learned trial court. The report of the learned trial court further reflects that petition for examining non-charge sheeted three injured persons and one police officer being witness to inquest report as witnesses was filed on 23.7.2018 when the trial commenced in 2015. The said prayer has been allowed by the learned trial court vide order dated 27.7.2018.

Learned counsel for the informant submits that the petitioner assaulted with stone and consequently, the father of the informant received injuries caused by stone. He further



submits that on the basis of the instruction that the trial is posted at the argument stage, such submission was made before this Court which is recorded in order dated 12.9.2018.

This Court is dismayed by such conduct of the informant, hence, keeping in view the fact that the petitioner is in custody since 18.4.2014, he is aged 74 years and there is no likelihood of the trial being concluded in foreseeable future, 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 1st Additional Sessions Judge, East Champaran at Motihari in connection with S.T. No. 265 of 2015 arising out of Paharpur P.S. Case No. 54 of 2014.

The learned court below will be at liberty to cancel the bail bonds of the petitioner in case he defaults on two consecutive occasions.

(Dinesh Kumar Singh, J)

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