

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.75624 of 2018

Arising Out of PS. Case No.-44 Year-2018 Thana- NTPC District- Patna

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AWADHESH KUMAR MAHTO @ AWADHESH KUMAR @ AWADHESH
MAHTO Son of Sri Upendra Mahto, resident of Village- Panch Mahala Bind
Toil, P.S. N.T.P.C., District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bhim Sen Prasad, Advocate
For the Respondent/s : Smt. Nirmala Kumari, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 15-01-2019 Heard the learned counsel for the petitioner and

learned counsel appearing on behalf of the State.

Petitioner is languishing in judicial custody since
27.06.2018 in connection with NTPC Barh) P.S.Case No.44 of
2018 for the offence alleged under Sections 382, 511, 307, 504
and 34 of the Indian Penal Code.

The prosecution case as lodged by the informant who
is security guard of NTPC is that while he was on duty, he saw
three persons were trying to steal wire and five persons were
found sitting on the railway line at the construction site. On
being questioned, they opened fire. Thereafter there was firing
from both sides and the accused persons fled away.

It has been submitted by the learned counsel for the



petitioner that he is innocent, not named in the FIR and has been falsely implicated only on his confessional statement before the police which has no evidentiary value in the eye of law. He submits that Section 307 of the IPC is not made out against the petitioner as nobody was injured in the said incident and the petitioner is languishing in judicial custody for more than six months. He further submits that chargesheet has already been submitted and there is no allegation of tampering of the prosecution witnesses by the petitioner.

However, learned APP for the State opposes the prayer for bail stating therein that the petitioner does not have clean antecedent as two more cases are pending against him.

Considering the facts and circumstances and the materials on record, let the petitioner, above named be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with NTPC (Barh) P.S.Case No.44 of 2018 to the satisfaction of Sri Manoj Kumar, Judicial Magistrate, Ist Class, Barh, Patna subject to the following conditions:-

(i) One of the bailors would be a close relative of the petitioners having sufficient immovable property, who will file an affidavit stating their relationship with the petitioners.



(ii) Petitioners will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(iii) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned Court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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