

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6183 of 2020**

Arising Out of PS. Case No.-500 Year-2019 Thana- GOPALGANJ TOWN District-
Gopalganj

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TARKESHWAR PRASAD @ TARKESHWAR MAHTO S/o Phulena Mahto
R/o village- Tirbirwa, P.S.- Gopalganj, District- Gopalganj

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar,Advocate

For the Opposite Party/s : Mr.Nityanand,APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 09-06-2020

This application has been placed for consideration by
the order of the Hon'ble the Chief Justice through virtual court
proceeding.

Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner in the present case is seeking regular
bail in connection with Gopalganj P.S. Case No. 500 of 2019
registered for the offences punishable under Section 302/34 of
the Indian Penal Code.

As per the prosecution story, when the brother of the
informant was returning with the co-villager Santosh Prasad and
he was on the Gopalganj Siwan main road, the seven named
accused persons surrounded him and started assaulting by hand
and fist blow. Co-accused Govind Prasad ordered to kill the



brother of the informant whereupon co-accused Laxman Prasad who was having an iron rod in his hand started assaulting the brother of the informant on his head which caused serious injuries. The informant claimed that when he and others wanted to save him, the co-accused Prem Shah and Rajendra Chaudhary who were lashed with Katta threatened them to kill if they move further. It is alleged that the accused persons fled away on their motorcycle. The cause of assault has been stated in the FIR according to which the deceased and the informant have got land dispute with their co-sharer Prem Shah.

Learned counsel submits that on a bare perusal of the First Information Report, it will appear that there are general and omnibus allegations against this petitioner. The specific allegation of repeated blow by iron rod on the head of the deceased has been made against co-accused Laxman Prasad. Learned counsel submits that it is a case of false implication of the petitioner on account of land dispute between the co-sharers.

Learned APP for the State has opposed the prayer for regular bail of the petitioner, however in course of his submission learned APP accepts that the main assailant of this case is Laxman Prasad and there is no specific allegation of assault against this petitioner. Statement of witness Santosh



Prasad as appearing in paragraph '4' and '5' of the case diary.

Considering the facts and circumstances of the case, wherein this petitioner is though named among the seven accused persons in the FIR but there being no specific allegation of committing overt act against this petitioner, the petitioner having remained in custody since 03.11.2019, investigation against him is complete and having noticed that the petitioner has one case of the year 2012 on his head in which he is on bail but in the present case he is not the assailant in the FIR, let the petitioner above named be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Gopalganj P.S. Case No. 500 of 2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person 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 further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

The application is allowed.

(Rajeev Ranjan Prasad, J)

SUSHMA2/Arvind

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

