

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.22096 of 2022**

Arising Out of PS. Case No.-442 Year-2021 Thana- JOGAPATTI District- West Champaran

MUNTUN KUMAR @ MITHILESH KUMAR, Son of Chandmal Mukhiya  
R/O Village - Padraun, P.S.- Yogapatti, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Ms Anjali Kumari, Advocate

For the Opposite Party/s : Mr. Dr. Ajeet Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

3      12-09-2022                      Heard Ms. Anjali Kumari Kumari, learned counsel for  
the petitioner and learned APP for the State.

Let the defect(s) be removed within four weeks of the  
complete start of the physical Court in normal course.

The case is registered under Sections 341, 323, 324,  
307, 447, 302, 504, 34 of the IPC in connection with Yogapatti  
P.S. Case No.442 of 2021.

On 04.08.2022 this Court had call for the case diary  
and the order is read as follows:

04.08.2022

*Heard the parties.*

*The petitioner is in custody in  
connection with Yogapatti P.S. Case No.442/2021  
under Sections 341, 323, 324, 307, 447, 302, 504,  
34 of Indian Penal code.*

*For the proper appreciation of the case,*



*call for legible xerox/carbon copy of the case diary, antecedent report of the petitioner as well as postmortem report from the court of learned C.J.M., Bettiah, West Champaran, in connection with Yogapatti P.S. Case No.442/2021.*

*Put up in due course.*

Accordingly, vide letter no.139/2022 the court of Judicial Magistrate, Ist Class-cum-A.M.IV, Civil Court, Bettiah, West Champaran has sent case diary and the letter is incorporated herein below:

*Letter No.139/2022*

*From,*

*Miss Somya Suman,  
J.M. 1<sup>st</sup> Class Cum-A.M.IV  
Civil Court, Bettiah  
West Champaran.*

*To,*

*The Assistant Registrar  
High Court of Judicature at Patna.*

*Dated, Bettiah, 29<sup>th</sup> day of August 2022*

*Subject-Regarding sending legible xerox copy of case diary of Yogapatti P.S. Case No.442 of 2021 in Cr. Misc. No.22096 of 2022.*

*Sir,*

*Respectfully and humbly I have to submit that with reference to order in Cr. Misc. No.22096 of 2022 arising out of Yogapatti P.S. Case No.442 of 2021 i,wherein call for legible xerox case diary of Hon'ble High Court Patna.*

*It is to be submitted that I am herewith sending xerox copy of case diary of Yogapatti P.S. Case No.442 of 2021.*

*This is for Your's Honours kind information and needful.*



*Enclosures:-  
Photocopy of case diary:37 Page.*

*Your's faithfully  
Sd/-illegible  
Miss Somya Suman,  
J.M. 1<sup>st</sup> Class, Bettiah  
29.08.22*

From the aforesaid letter it is clear that neither the learned court has taken note of the order by which antecedent report was called for nor the same has found mentioned in the letter dated 29.08.2022 and it shows the casual nature in which the order of this Court has been taken.

As such, the concerned Judicial Officer is directed to submit a show-cause on reason behind not sending the criminal antecedent report of the petitioner nor incorporating anything in the letter about it.

As per the prosecution story, there is dispute relating to land and earlier there was hot discussion of the petitioner with the informant which led to assembly of all the accused persons half an hour later including the petitioner herein. It has been alleged that after abusing the accused Raja Kumar, Ashish Kumar and Muntun Kumar @ Mithilesh Kumar gave repeated knife blow to their family members which led to death of Parsan Mukhiya and Ramayan Mukhiya. Accordingly, the FIR was lodged.



Ms. Anjali Kumari, learned counsel who is representing the petitioner submits that a bare perusal of para-10 of the case diary would show that the informant in his subsequent statement has named Raja Kumar @ Aashish Kumar as the person who gave knife blow to his father and uncle in the stomach and chest respectively causing serious injuries to them which prove fatal.

So far as the petitioner is concerned, learned counsel submits that there is nothing recorded in the statement of the informant about specific allegation against the petitioner herein and an omnibus allegation has been made against the accused persons including him of assault to other injured persons.

Taking into account the aforesaid fact that the informant in his subsequent statement has attributed the role of giving blow to his father and uncle to Raja Kumar @ Aashish Kumar and so far as this petitioner is concerned omnibus allegation has been made of assaulting the other accused persons, he is in custody since 14.10.2021 (as stated in para-12 of the bail application) and has no criminal antecedent, this Court is inclined to grant him privilege of bail. However, if it is found that he do have criminal antecedent, this bail order shall become infructuous.



Let the petitioner 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 Yogapatti P.S. Case No.442 of 2021 to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month till the conclusion of the Trial to mark his presence;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty



to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

Before parting, this Court would like to put on record its word of appreciation for Ms. Anjali Kumari, learned counsel appearing on behalf of the petitioner for the assistance rendered in the matter.

Let a copy be sent to the learned District Judge, West Champaran, Bettiah for his perusal and necessary action.

**(Rajiv Roy, J)**

Prakash Narayan /-

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