

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.39898 of 2022**

Arising Out of PS. Case No.-144 Year-2020 Thana- GORAUL District- Vaishali

Anup Lai Rai @ Anup Rai S/o Late Singeshwer Rai Resident of Piroi, P.S.-  
Goraul, Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                                                                                   |
|--------------------------|---|---------------------------------------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. N.K. Agrawal, Sr. Advocate<br>Mr. Amresh Kumar Sinha, Advocate<br>Mr. Kumar Rajdeep, Advocate |
| For the Informant        | : | Mr. Shakal Ahmad Khan, Advocate                                                                   |
| For the Opposite Party/s | : | Mr. Nand Kishore Prasad, APP                                                                      |

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

3      18-10-2022                      The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

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

Petitioner seeks regular bail in connection with Goraul P.S. Case No.144 of 2020 registered for the offence punishable under Sections 147, 148, 149, 302, 447, 448, 342, 323 and 324 of the Indian Penal Code.

As per the allegation, the informant has alleged in her Fardbeyan that this petitioner along with other accused persons entered into her house and brutally assaulted the informant's son



by means of *Lathi* and *Danda* on account of a land dispute between them. Eventually, the informant's son succumbed to the injuries during medical treatment.

The main submissions advanced by the learned counsel Mr. N.K. Agrawal for the petitioner are that as per the FIR the petitioner and two co-accused persons namely Rupesh Kumar and Ramesh are alleged to have assaulted at the chest of the deceased by means of *Lathi* but as per the postmortem report of the deceased no injury was found on the chest of the deceased, only one injury was found on the head of the deceased and the same was specifically alleged to have been caused by co-accused persons namely Jitendra Kumar and Manish Kumar and the said co-accused Jitendra Kumar has been granted bail by a Co-ordinate Bench of this Court vide order passed in Cr. Misc. No.56273 of 2021. Further submission is that ten named and twelve unknown persons were alleged to have committed the alleged occurrence and inordinate delay of four days was made by the prosecution in lodging the FIR and the petitioner himself surrendered before the Court below and he has been languishing in jail since 13<sup>th</sup> December, 2021.

Learned APP Mr.Nand Kishore Prasad appearing for the State assisted by learned counsel Mr. Shakal Ahmad Khan



appearing for the informant has vehemently opposed the bail prayer and submitted that the petitioner actively played a serious role in the alleged occurrence which resulted in murder of informant's son and the alleged occurrence was committed with an intention to grab the informant's land which situates at her *Naihar's* village, though co-accused Jitendra Kumar has been granted bail by a Co-ordinate Bench of this Court but after considering his long custody period.

Heard both the sides and perused the FIR and the postmortem report of the deceased annexed with the petition. Admittedly, there was a land dispute in between both the parties at the time of the alleged occurrence. As per the FIR altogether twenty-two persons were alleged to have entered into the house of informant and all of them with giving a threat asked the informant to transfer her land in favour of this petitioner and when she protested, the petitioner with his two sons forcefully dragged the informant's son and pushed him to the ground and thereafter the petitioner and his sons assaulted at the chest of informant's son by means of *Lathi* and thereafter other co-accused persons assaulted him by means of *Lathi*. The allegation made against the petitioner in the FIR does not get corroboration from the postmortem report of the deceased as



only one injury was found at the head of the deceased and the same was specifically alleged to have been caused by co-accused persons Jitendra Kumar and Manish Kumar and the said co-accused Jitendra Kumar is on bail. In view of the description of the injury mentioned in the postmortem report, it does not appear that the deceased was assaulted repeatedly by means of *Lathi*. Considering all these facts and petitioner's custody period and mainly taking into account the privilege of bail having been granted to the co-accused Jitendra Kumar who appears to be main accused of this case, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner 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 concerned Court in connection with Goraul P.S. Case No.144 of 2020, on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.



(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

**(Shailendra Singh, J.)**

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