

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5956 of 2023

Arising Out of PS. Case No.-439 Year-2021 Thana- FATEHPUR District- Gaya

Rambali Yadav, Son of Yedal Yadav @ Yedal Prasad Yadav R/o Village -
Bhetaura, P.S.- Fatehpur, District - Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Ajay Kumar Sinha, Advocate
For the Opposite Party	:	Md. Shakir Ahmad, APP
For the Informant	:	Mr. Praveen Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-06-2023 Heard learned counsel for the petitioner, learned
Additional Public Prosecutor for the State and learned counsel
for the informant.

The petitioner seeks bail in connection with
Fatehpur P.S. Case No.439 of 2021 registered for the offences
punishable under Sections 147, 148, 149, 341, 323, 504, 506,
307 of the Indian Penal Code and Section 27 of the Arms Act
but, later on Section 302 of the Indian Penal Code was added.

The accused/petitioner named in the FIR and is in
custody since 17.11.2022.

Allegation against the petitioner is to commit
murder of brother of the informant along with other co-accused
persons by making an assault with iron rod, *khanti* and butt of
gun causing serious head injuries leading death, where the



occurrence is arises out of land dispute.

It is submitted by learned counsel appearing on behalf of the petitioner that allegation as regard to assault is appearing very much general and omnibus in nature as same is appearing from the statement of injured/deceased himself as recorded in para-10 of the case diary. While travelling over the argument, it is submitted by learned counsel that as per first injury report issued by Primary Health Centre, only two lacerated wound were noticed, which is not appears convincing in the background of the allegation as petitioner cause assault by using *khanti* which is a sharp-edged cut weapon, falsifying the allegation of assault on its face itself. It is submitted that petitioner is a man of clean antecedent and moreover investigation of this case is completed for which charge-sheet has been submitted and as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by Mr. Praveen Kumar, learned counsel for the informant while opposing the prayer for bail submitted that there is specific allegation against this petitioner as to assault injured/deceased causing fatal head injury. It is submitted that a discharge petition is pending on behalf of the petitioner before the learned trial court and



petitioner being influential person is intentionally delaying the trial and, as such, it would not be appropriate to release him on bail at least at this stage.

In view of the above-mentioned facts and circumstances and by taking note of the fact as allegation as regard to cause fatal assault is appearing very much general and omnibus against the petitioner, which is also not appears corroborated in terms of nature of weapon as alleged to cause assault by this petitioner, coupled with the fact that the charge-sheet has been submitted where petitioner is in custody since 17.11.2022, accordingly petitioner above-named is directed to be released on bail **after disposal of discharge petition filed on behalf of the petitioner, if any**, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-X, Gaya in connection with Fatehpur P.S. Case No.439 of 2021, subject to the condition as laid down under Section 437(3) of the CrPC and also with further condition that accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the Trial and exemption from physical appearance be allowed by the Trial Court only on



medical ground of the petitioner duly supported by the documents.

(Chandra Shekhar Jha, J.)

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