

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34925 of 2023

Arising Out of PS. Case No.-87 Year-2023 Thana- KESARIA District- East Champaran

Birendra Prasad Gupta S/O Late Sitaram Shah R/O Village- Kesariya Garh,
P.S- Kesariya, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pawan Kumar, Advocate
For the Opposite Party/s	:	Mr. Shantanu Kumar, APP
For the Informant	:	Mr. Abhishek Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 31-07-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with
Kesariya P.S. Case No.87 of 2023 registered for the offence
under Sections 341, 323, 307, 385, 504, 379, 506 and 34 of the
Indian Penal Code.

3. The accused/petitioner is named in the F.I.R. and is
in custody since 03.03.2023.

4. The allegation against the petitioner is to assault
informant and others alongwith other co-accused persons/family
members by means of using *lathi*, iron rod etc., having intention
to caused their death, where occurrence arises out of land
disputes.



5. Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated with present case out of land disputes, where informant and petitioner both are full brother. It is submitted that occurrence is of free fight in nature, where both parties received injuries and for the said occurrence prior case was lodged by the petitioner's side, which has registered as Kesariya P.S. Case No. 78 of 2023. It is further submitted that as occurrence is free fight in nature, it cannot be said that petitioner was under intention to cause death and moreover, the nature of injury upon informant after medical examination not appears grievous as no fracture appears to be reported on skull and knee joint. While concluding the argument, it is submitted that petitioner found involved in six more cases, where three cases instituted upon police report and remaining three cases instituted upon complaint, where petitioner is on bail in three cases and moreover, investigation of this case has been completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer for bail submitted that one of the injury caused by this petitioner



on the nasal bone and same found grievous, fairly conceded that occurrence is free fight in nature.

7. In view of the facts and circumstances as occurrence is free fight in nature, where both parties received injuries coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 03.03.2023, accordingly, petitioner, above named, is directed to be released on bail in connection with Kesariya P.S. Case No.87 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions :-

(i) 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.

(iii) That one of the bailors
shall be deponent of the present bail
petition.

(Chandra Shekhar Jha, J)

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