

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55378 of 2022

Arising Out of PS. Case No.-3 Year-2022 Thana- PHULWARIYA District- Gopalganj

ANAND KUMAR YADAV @ AAND KUMAR YADAV Son of Ajit Kumar
Yadav Resident of Village - Kishundev Chaper, P.S.- Phulwariya, District -
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Javed Aslam, Advocate
For the Informant/s	:	Mr. Jitendra Kumar Shrivastwa, Advocate
For the Opposite Party/s	:	Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 28-04-2023 Heard learned counsel for the petitioner, learned
counsel for the Informant and learned APP for the State.

2. Petitioner seeks regular bail in connection
with Phulwariya P.S. Case No.03 of 2022 dated 03.01.2022
registered for the offence punishable under Sections 341, 323,
324, 307, 302 and 34 of the Indian Penal Code.

3. As per the prosecution, the informant alleged
that this petitioner assaulted on the head of the informant's wife
by means of iron rod (saria) owing to which she died. Further it
is alleged that one co-accused assaulted the informant's son by
means of iron rod.

4. The main submissions advanced by the
learned counsel for the petitioner are that in fact the prosecution



party were aggressors and the place of occurrence was roof of the petitioner's house and the petitioner was badly assaulted by the prosecution party for which he was treated at Integral Institute of Medical Sciences and Research at Lucknow, in support of which relevant documents vide Annexure-2 have been filed and the CT scan report of the petitioner shows that he sustained serious head injury and the prosecution has not explained his injury which was concerned to the relevant time of the occurrence of the present matter and the petitioner also filed a complaint case against the prosecution party. Further submissions are that the petitioner is a very young person and his age is about 21 years and there is no allegation of repeated blows by this petitioner upon the deceased and the informant is not eye witness of the alleged occurrence.

5. Learned counsel appearing for the Informant has vehemently opposed the bail prayer and submitted that the petitioner is the main assailant who caused iron rod blow at the head of the informant's wife which resulted in her death and same gets corroboration from her postmortem report and the petitioner has also criminal antecedents.

6. Learned APP appearing for the State has also opposed the bail prayer.



7. Heard the parties and perused the FIR, case diary and order impugned of this case. The petitioner is named in the FIR and against him there is serious and specific allegation of having assaulted at the head of the informant's wife by means of an iron rod, owing to that assault the victim died. Though, as per the FIR, the informant does not appear to be an eye witness but he stated in the FIR that he and his son immediately rushed to the spot and as per his statement the petitioner was present at the place of occurrence and the petitioner's defence discussed above does not get corroboration from the statements of any of the witnesses recorded during investigation, in the opinion of this Court the petitioner does not deserve to the privilege of bail. Accordingly, his bail prayer stands rejected.

(Shailendra Singh, J)

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