

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57766 of 2022

Arising Out of PS. Case No.-638 Year-2022 Thana- MUFFASIL District- West Champaran

OM PRAKASH TIWARI Son of Late Raja Tiwari R/V- Awrahiya Tiwari
Tola, Awarahiya, P.S- Banuchhapar O.P (Muffasil) Bettiah Dist- West
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Zainul Abedin, Advocate
For the Opposite Party/s	:	Mr. Anand Kishore Choudhary, App
For the Informant	:	Mr. Sanchay Srivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 15-02-2023 Let the defect(s), if any, pointed out by the office be removed within three weeks from the date of this order failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner, the learned APP for the State as well as learned counsel for the Informant.

Petitioner seeks regular bail in connection with Banuchhapar O.P. (Mufassil) Bettiah P.S. Case No. 638 of 2022 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 354(B), 379, 504 and 506 of the Indian Penal Code.

As per the prosecution, the informant alleged that this petitioner along with other co-accused persons assaulted the informant and his family members by means of farsa, lathi, iron



rod etc.

The main submissions advanced by the learned counsel Mr. Zainul Abedin for the petitioner are that there was no allegation of repeated blow by this petitioner over the so-called injured persons who were stated to have been assaulted by this petitioner, from the facts of the FIR, it can be safely inferred that there was no intention on the part of the petitioner to kill any of the injured persons and he was alleged to have assaulted two persons namely Siddheshwar Prasad and Shyambabu Prasad and all the injuries found on the persons of Siddheshwar Prasad were opined to be simple in nature and caused by hard and blunt object and on the person of injured namely Shyambabu Prasad, only one injury was found though the same was opined to be grievous in nature but also opined to be caused by hard and blunt object but the same is not in corroboration to the weapon allegedly used by this petitioner as per the allegation in the FIR. Further submission is that the petitioner has fair and clean antecedent and has been languishing in jail since 07.08.2022.

Learned counsel Mr. Sanchay Srivastava appearing for the informant has vehemently opposed the bail prayer and submitted that there is a specific allegation against the petitioner



in the FIR and this petitioner and other co-accused persons named in the FIR committed the occurrence in furtherance of the common object and the injured person namely Shyambabu Prasad sustained grievous injury on his vital part of body .

Having considered the above submissions and mainly the genesis of the occurrence and also the fact that as per above submissions two persons are stated to have been assaulted by this petitioner but the nature of the weapon mentioned in the FIR which was allegedly used by this petitioner in assaulting the said two persons does not get corroboration from the medical expert's opinion and the petitioner has fair and clean antecedent and has been languishing in jail since 07.08.2022, 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 Banuchhapar O.P. (Mufassil) Bettiah P.S. Case No. 638 of 2022.

(Shailendra Singh, J)

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