

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30362 of 2020

Arising Out of PS. Case No.-96 Year-2020 Thana- BUXAR District- Buxar

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Himanshu Upadhyay, Son of Hareram Upadhyay, Resident of Village -
Chhotki Sarimpur, P.S.- Buxar (Town), District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan, Advocate

For the Opposite Party/s : Mr. Anant Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 15-12-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

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

The petitioner seeks bail in connection with Buxar (Town) P.S. Case No.96 of 2020 registered for the offence punishable under Section 414/34 of the Indian Penal Code and Sections 25(1-b)a, 26, 35 of the Arms Act.

The prosecution case is that the police personnel have



gone to the house of the petitioner on a secret information that certain anti-social elements have assembled and are planning to commit crime. It is alleged that on seeing the police, they tried to flee away, but the petitioner has been apprehended along with two other co-accused, namely, Monu Mishra and Prince Tiwari.

Petitioner's counsel submits that the petitioner has earlier been implicated in 13 cases as per disclosure made in paragraph 3 of the petition. In two of the said cases, he has been acquitted and he has been on bail in the remaining 11 cases. Recovery of alleged firearm from the petitioner is in contravention of Section 100 Cr.P.C. inasmuch as only the police members are the seizure list witnesses. Charge-sheet has already been submitted. The petitioner is in custody since 27.02.2020.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, this Court is inclined to allow the petitioner's prayer for bail.

Accordingly, let the petitioner, above named, 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 learned Chief Judicial Magistrate, Buxar, in



connection with Buxar (Town) P.S. Case No.96 of 2020, subject
to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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