

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.29113 of 2020**

Arising Out of PS. Case No.-63 Year-2020 Thana- SIKRAUL District- Buxar

SHIVSHANKAR UPADHAYE NAGARI @ SIVSANKAR UPADHAYE
NAGARI S/o Madan Upadhaye Resident of Village-Baikunthpur, P.S.-
Sikraul, District-Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bachan Jee Ojha, Adv.
For the Opposite Party/s	:	Mr.Md. Fahimuddin, APP
For the Informant	:	Mr. Anil Kumar Roy, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-11-2020 Learned counsel for the petitioner undertakes to remove the defects, if any, within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Md. Fahimuddin, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Sikraul P.S. Case NO.63/2020 registered for the offence under Sections 147, 148, 149, 307 and 506 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that as per the First Information Report this petitioner and five other



unknown persons came to the place of occurrence lashed with gun, lathi, bhala etc. and they started firing from gun. It is stated that there is no allegation that this petitioner was having a gun in his hand. The allegation is of indiscriminate firing against eight persons in which three persons of the informant's side are said to have suffered injury.

The learned Sessions Judge while rejecting the prayer for regular bail of the petitioner has noticed that the injury of Janardan Upadhayay is grievous in nature but according to learned counsel the said injury is in the ring finger of Janardan Upadhayay and not on any vital part of the body and further the said injury has not been attributed to the petitioner. It is submitted that the dispute is on account of a land dispute and for the same offence there is a counter case being Sikraul P.S. Case No.64/2020. This petitioner is in custody since 02.06.2020 and has no criminal antecedent.

On the other hand, learned counsel for the informant and learned APP for the State have opposed the prayer for regular bail of the petitioner. It is submitted that the petitioner was also there and has participated in the alleged occurrence.

Having regard to the facts and circumstances of the case where there is no specific allegation that this petitioner was



carrying a gun and/or that his shot has caused injury as alleged, there being a counter case, the land dispute, the petitioner having no criminal antecedent and is in custody since 02.06.2020, investigation being complete against him and there is no submission that his release is likely to result in tampering of evidence or interfering with the course of trial, this Court directs release of the petitioner on bail on furnishing bail bond of Rs.25,000 (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Buxar in connection with Sikraul P.S. Case No.63/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police officer or tamper with the evidence.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

