

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 34565 of 2020

Arising Out of PS. Case No.-93 Year-2020 Thana- SIKANDRA District- Jamui

Upendra Singh @ Upendra Prasad Singh, Male, aged about 55 years, Son of Late Yamuna Singh, Resident of Village-Darkha, Police Station-Sikandra, District-Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 26-08-2021

The matter has been heard via video conferencing.

2. Heard Mr. Arun Kumar, learned counsel for the petitioner; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Manoj Kumar, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Sikandra PS Case No. 93 of 2020 dated 09.05.2020, instituted under Sections 147, 148, 149, 447, 341, 323, 307, 324 of the Indian Penal Code and 27 of the Arms Act, 1959.

4. The allegation against the petitioner and others is that they had come on the site and had intimidated the informant who was tilling the land with his tractor and also opened fire and



specifically against the petitioner is of opening fire which hit Suresh Kumar on the mouth, cheek and hands.

5. Learned counsel for the petitioner submitted that he has been falsely implicated in the case as the claim of the informant that he was ploughing the land which he had got on *patta* from Dhaneshwar Prasad is falsified by the fact that for the said piece of land, there was a title suit between the parties and though the petitioner had lost the suit, he has filed an appeal which is pending and moreover, this Court by order dated 19.03.2018 in Civil Misc. Case No. 226 of 2018 has stayed further proceeding in Executive Case No. 3 of 2016, which was filed by Dhaneshwar Prasad for recovery of possession of the lands in question. Thus, learned counsel submitted that since admittedly the land in question was not in the possession of Dhaneshwar Prasad, he could not have given it on *patta* to the informant. Learned counsel submitted that this clearly shows that the informant's side were the aggressors. Learned counsel submitted that the wife of co-accused Gorelal Yadav has filed Sikandra PS Case No. 95 of 2020, with regard to the same incident in which it is alleged that Gorelal Yadav was the driver of the tractor which was ploughing the field in question at the behest of the petitioner and the informant's side in the present case had come there and



had tried to forcibly take possession and plough the lands and when the accused in the present case protested, the present informant's side had resorted to firing from different corners and also overpowered her husband. It was submitted that the informant resides 4 Kilometers away from the place of occurrence and is a renowned criminal and used to take contract for getting possession of lands which were disputed and the present is also such a case. Learned counsel submitted that there was a free fight and it was the informant's side which had come equipped with firearms and it was the firing made from the side of the informant which had hit Suresh Kumar, who is the victim in the present case and to get over the situation, the informant has lodged this case to save himself. It was submitted that independent witnesses have specifically stated that there was free firing from both the sides and they have not identified the petitioner as the person whose firing had hit the victim Suresh Kumar. Learned counsel submitted that the petitioner has no criminal antecedent whereas against the informant, there are seven criminal cases.

6. Learned APP, from the case diary, submitted that besides the witnesses having supported the prosecution case, even the victim has given a statement before the Superintendent of Police, Jamui supporting the allegations made in the FIR and



reiterating that it was the firing made by the petitioner which had hit him. Further, it was submitted that multiple gunshot injuries have been found on the person of the victim Suresh Kumar which is specifically attributed to the petitioner, both in the FIR as well as in what has come by way of statement of witnesses during police investigation.

7. Learned counsel for the informant submitted that without going into the civil aspect of the matter, the present case is only with regard to the incident where it is alleged that the firing made by the petitioner had hit the victim Suresh Kumar. It was submitted that the same being corroborated by the injury report as also the fact that witnesses have supported such allegation, the petitioner does not deserve the privilege of anticipatory bail.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, taking into consideration the fact that the victim himself has given statement specifically alleging that the firing made by the petitioner had hit him and the injury report disclosing multiple firearm injuries, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the petition stands dismissed.



10. Interim protection granted to the petitioner under
order dated 16.04.2021, stands vacated.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

