

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 35846 of 2020

Arising Out of PS. Case No.-141 Year-2020 Thana- UJIYARPUR District- Samastipur

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DIVYANSHU KUMAR @ RAJA @ DIVAYANSU KUMAR SON OF
CHUNCHUN KUMAR SINGH RESIDENT OF VILLAGE - SAHIT, P.S.
VIDYAPATI NAGAR, DISTRICT - SAMASTIPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Narain Sinha

For the Opposite Party/s : Mr.Ajit Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 05-03-2021 The matter was heard at length yesterday and today,

this case has been listed “For Orders”.

The petitioner seeks regular bail in connection with

Ujiarpur PS case no. 141 of 2020 instituted for the offences

punishable under Section 394 of Indian Penal Code and 27 of

Arms Act.

The case of the prosecution in brief is that on

24.05.2020 at about 4.45 am, when the informant was going to

his in-laws’ house along with his wife and children on a

motorcycle and had reached near the Bridge, three unknown

miscreants had surrounded them as also had looted their articles,

cash amount etc., apart from one of them having fired gun shot,

resulting in the informant sustaining injury on his little finger of



the right hand. It is further alleged that one of the accused persons had also fired gun shots which had hit the informant on his right leg below the knee.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case. It is further submitted that the petitioner was remanded in the present case on 29.06.2020 and since then, he is languishing in custody. Lastly, it is submitted that no test identification parade has been held so as to connect the petitioner with the alleged crime.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail and has submitted that the petitioner is a veteran criminal and is accused in 06 other criminal cases. It is further submitted that there are ample materials in the case diary to show the complicity of the petitioner in the alleged crime.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also those available in the case diary, this Court finds that during the course of investigation, it has come to light that the petitioner is engaged in criminal activities and operates in the



area where the alleged occurrence had taken place, hence his complicity in the alleged crime cannot be ruled out. Moreover, this Court finds that the petitioner is an accused in 06 other cases, hence has a bad criminal antecedent which alone is enough to disentitle the petitioner to the privilege of bail. In this regard, reference be had to a judgment rendered by the Hon'ble Apex Court in a case reported in *(2012) 9 SCC 446 (Ash Mohammad vs. Shiv Raj Singh & Anr.)*, wherein the Hon'ble Apex Court has held that the criminal antecedents of an accused are also to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty and further social concern deserves to be given priority over lifting the restriction on liberty of the accused in such cases.

Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present petition, accordingly the same stands dismissed.

(Mohit Kumar Shah, J)

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