

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.284 of 2021**

Arising Out of PS. Case No.-226 Year-2020 Thana- PHULPARAS District- Madhubani

MD. ZAKIR @ JAKIR MIYAN Son of Makdum Miyan Resident of Village -
Siswa Barhi, P.S. - Phulparas, District - Madhubani.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Rajendra Narayan, Sr. Advocate

Mr. Manoj Kumar Jha, Advocate

For the Opposite Party/s : Mr. Madhura Nand Jha, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 15-04-2021

At the outset, learned Senior Counsel informed this court that in the first paragraph of the application a typographical error has occurred in respect of the case number. The correct case number is Phulparas P.S. Case No. 226/2020.

Let the error be corrected accordingly.

Heard learned Senior Counsel for the petitioner and learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Phulparas P.S. Case No. 226/2019 registered for the offence under Section 147, 148, 149, 447, 448, 323, 307, 380, 427, 504, 506 of the Indian Penal Code and 27 of the Arms Act.

Learned Senior Counsel for the petitioner submits that as per the prosecution story the quarrel between the two groups



had taken place over the leading of Namaj prayer by the Maulanas. While one group was favouring one of the Maulanas the another group was opposing the same. It is alleged that in the said quarrel the petitioner and the co-accused fired upon the informant's side. So far as this petitioner is concerned, he had fired from his gun allegedly which hit the uncle of the informant on his right hand and caused him injury.

Learned Senior Counsel submits that there is no injury report of the uncle of the informant namely Sadre Alam. Attention of this court has been drawn towards the statement of the Investigating Officer in paragraph 69 of the case diary wherein he has recorded that despite his all efforts the injury report of Sadre Alam was not made available to him. Submission is that the allegation of firing upon Sadre Alam is upon his right hand which is not a vital part of the body, the petitioner is in jail in connection with the present case since 09.06.2020, hence he may be released on bail.

Learned Senior Counsel further submits that though the criminal antecedent report called by this court shows only two cases being Phulparas P.S. Case No. 226/2020 and Phulparas P.S. Case No. 168/2020. This petitioner has disclosed in paragraph '3' about four cases. In two of them, he has got



anticipatory bail whereas in other two cases he has filed petition for taking him on remand.

Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, the nature of allegation against this petitioner of firing upon the right hand of the uncle of the informant but no injury report is available on the record, the petitioner has remained in jail in connection with this case for ten months, investigation against him is complete and further incarceration of the petitioner in jail is not likely to come in aid of investigation or prosecution, there being no statement on behalf of the State that release of the petitioner is likely to result in tampering with the evidence or interfering with the course of trial, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.- II, Jhanjharpur, District – Madhubani, in connection with Phulparas P.S. Case No. 226/2019, 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

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'.

