

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.10284 of 2021**

Arising Out of PS. Case No.-194 Year-2020 Thana- MUNGER MUFFASIL District- Munger

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Deepak Yadav @ Deepak Kumar, aged 34 years (Male), son of Late  
Chunchun Yadav, resident of village -Bank, P.S.- Muffasil, Dist.- Munger.  
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Senior Advocate with Mr. Sanjiv Kumar Singh, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP
For the Informant	:	Mr. Indu Bhushan, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 10-08-2021**

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 03.08.2021, which was allowed.

3. Heard Mr. Yogesh Chandra Verma, learned senior counsel along with Mr. Sanjiv Kumar Singh, learned counsel for the petitioner; Mr. Sanjay Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Indu Bhushan, learned counsel for the informant.

4. The petitioner apprehends arrest in connection with Muffasil PS Case No. 194 of 2020 dated 19.08.2020, instituted under Sections 147, 148, 149, 341, 323, 307, 504, 506 of the



Indian Penal Code and 27 of the Arms Act, 1959.

5. The allegation against the petitioner and others is of assault on the informant and other persons during course of *Panchayati*.

6. Learned senior counsel for the petitioner submitted that as per the FIR itself, during course of *Panchayati* relating to land dispute, the incident is said to have occurred. He submitted that there is also a counter case for the same incident and the sequence of events narrated in the counter case have not been explained in the present case, inasmuch as, injury suffered by the petitioner's side has not been explained. It was submitted that the allegations are general and omnibus in nature against the accused persons and specifically against the petitioner, it is stated that he fired from his pistol on the victim Shambhu Yadav, who is also the informant, on his head, but he managed to avoid the same and the bullet had hit him on his leg. Learned senior counsel drew the attention of the Court to the injury report of the said Shambhu Yadav and submitted that the same discloses that there was lacerated wound behind left knee and the nature of the injury is said to be simple but caused by dangerous firearm weapon/gun shot. It was further submitted that the report also discloses that there was no evidence of



grievous injury. It was contended by learned senior counsel that the incident occurred due to aggression from the informant's side and the petitioner's side has also suffered serious injury. It was submitted that the petitioner has no other criminal antecedent and he is in employment being Havildar Instructor in Home Guard and Fire Services, Bihar. Learned counsel submitted that the law has been clarified by the Hon'ble Supreme Court in the case of *Sushila Aggarwal Vs. State (NCT of Delhi)*, 2020(1) PLJR (SC) 524, the relevant being at paragraph no. 76, that parameters for grant of regular bail and anticipatory bail should be the same and no distinction should be made between the two. It was further submitted that if at all, the allegation is accepted to be true, the same has resulted only in lacerated wound behind the knee which clearly indicates that it was on a non-vital part and also the wound is superficial and simple in nature.

7. Learned APP submitted that as per the allegation, the petitioner used firearm which has resulted in injury on the informant.

8. Learned counsel for the informant submitted that the petitioner was also party to the abduction of another victim, namely, Ravi Raj, upon whom, co-accused, Jai Raj Yadav @



Gautam Yadav, had fired on the neck which is corroborated by the injury report. It was submitted that the injury report of the informant clearly shows blackening of the margin and X-ray was advised, but there is no report of the X-ray and further, the nature of injury has been shown to be by dangerous firearm weapon/gun shot and the attempt by the petitioner was to cause serious damage as he had used firearm and it was the good fortune of the informant that he was saved and it did not cause any major damage, but such fortuitous circumstances cannot lead to grant of benefit to the petitioner for he had tried his best to cause damage by firing on the head and the informant had been able to save himself from such assault. Learned counsel submitted that the fact that the petitioner being employed in Home Guard and Fire Services and committing such offence, itself is a serious thing and the witnesses have also supported the incident. Learned counsel submitted that the present is not a fit case even for regular bail, much less anticipatory bail, as the firing caused by the petitioner has resulted in injury and the Court, at this stage, may not go into the seriousness of the injury as the mere fact that firing has been made itself discloses the intention to cause serious damage and it was not because of the petitioner that simple injury was caused, since it was the



informant, who had managed to save himself from any serious damage of which the benefit cannot be taken by the petitioner.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned APP and learned counsel for the informant. At this stage, when the allegation is of firing against the petitioner, which is corroborated by the injury report, the Court would not weigh the pros and cons or the seriousness of the injury.

10. For reasons aforesaid, the Court is not inclined to grant pre-arrest bail to the petitioner.

11. Accordingly, the petition stands dismissed.

**(Ahsanuddin Amanullah, J)**

J. Alam/-

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