

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21599 of 2015

Arising Out of PS.Case No. -76 Year- 2011 Thana -TRIVENIGANJ District- SUPAUL

- =====
1. Md. Lukman Khan, @ Lukman Khan
 2. Md. Jalauddin @ Md. Jalaluddin Khan, both sons of Md. Fahim khan,
 3. Md. Alamgir @ Alamgir Khan @ Alamgir, Son of Nizam khan,
 4. Md. Shamim @ Gultan Khan, Son of Late Nabi Hassain Khan,
 5. Md. Ekram Khan, Son of Late Islam Khan,
 6. Md. Saddam, Son of Israil Khan,
 7. Md. Amir Khan @ Md. Amir, Son of Late Nabi Hassain Khan,
 8. Md. Jijam @ Nizam Khan @ Nizamuddin Khan, Son of Ishaque khan,
 9. Eklakh Khan, Son of Nizam Khan,
- All are resident of Village-Kopariya, Police Station-Triveniganj,
District-Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun

For the Opposite Party/s : Mr. Jitendra Kr. Singh No.1(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 05-10-2015

Heard learned counsel for the parties.

Having regard to the fact that the petitioner nos. 1, 2, 4, 5 & 7 were earlier on police bail, their prayer for anticipatory bail is definitely not maintainable.

Accordingly, the prayer for anticipatory bail of the petitioner nos. 1. Md. Lukman Khan @ Lukman Khan, 2. Md. Jalauddin @ Md. Jalaluddin Khan, 4. Md. Shamim @ Gultan Khan, 5. Md. Ekram Khan and 7. Md. Amir Khan @ Md. Amir is hereby rejected and they must surrender and make a prayer for

regular bail. If they do so, the court below shall dispose of the same in accordance with law by also taking into account the decision of this Court in the case of *Mahendra Singh Vs. State of Bihar* reported in *2004(3) PLJR 491*.

As with regard to rest of the petitioner nos. 3, 6, 8 & 9, this Court, keeping in view that the police had submitted the final form against them whereafter the learned Magistrate, having differed, has taken cognizance, would find them entitled for grant of privilege of anticipatory bail.

That being so, if the petitioner nos. 3. Md. Alamgir @ Alamgir Khan @ Alamgir, 6. Md. Saddam, 8. Md. Jijam @ Nizam Khan @ Nizamuddin Khan and 9. Eklakh Khan surrender before the Court below within a period of four weeks from today, they shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Supaul in connection with Triveniganj P.S. No. 76 of 2011, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) That both the bailors will be a close relative of the petitioners, who will undertake an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also

undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the affidavit shall clearly state that the petitioners are not an accused in any other case and if they are, they shall not be released on bail.

(iii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iv) That the petitioners will be well represented on each and every date in course of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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