

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18166 of 2015

Arising Out of PS.Case No. -438 Year- 2014 Thana -KISHANGANJ District- KISANGANJ

Nishat @ Nishat Alam @ Nishant Alam, S/o Sher Mohammad @ Sher Ali,
R/o Parsa, Baluwa Bazar, P.S. Baluwa Bazar, District - Supaul, At Present
R/o Quarter No. 4, Ward No. 35, Gulbasti, P.S. & District - Kishanganj

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.20625 of 2015

Arising Out of PS.Case No. -438 Year- 2014 Thana -KISHANGANJ District- KISANGANJ

Isteyak @ Tinku @ Isteyak Hussain, Son of Afaq Hussain, Resident of
village - Dehri Road, Ward no. 16, Panibagh, PS and District - Kishanganj.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

Appearance :

(In Cr.Misc. No.18166 of 2015)

For the Petitioner/s : Mr. Manoj Priyadarshi, Adv.

For the Opposite Party/s : Mr. Nand Kumar (App)

(In Cr.Misc. No.20625 of 2015)

For the Petitioner/s : Mr. Bajarangi Lal, Adv.

For the Opposite Party/s : Mr. Ramesh Chandra(App)

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 20-07-2015 Heard learned counsel for the petitioners and

learned counsel for the informant. Learned counsel for the

State is also present.

Nishat @ Nishat Alam @ Nishant Alam,

petitioner in Cr. Misc. No.18166 of 2015, and Isteyak @



Tinku @ Isteyak Hussain, petitioner in Cr. Misc. No.20625 of 2015, have been in custody since 30.8.2014 and 27.8.2014 respectively in connection with S. Trial No.104/2015, arising out of Kishanganj P.S. Case No.438 of 2014, registered for the offence punishable under Sections-364 of I.P.C.. Diary in the present case has also been received.

Learned counsel for the petitioners submits that though they were named in the F.I.R., the names of these petitioners have surfaced on account of previous enmity and it is on the basis of their own confessional statements that they are facing prosecution in connection with the present case. Learned counsel for the petitioners further submits that save and except the confessional statement, which cannot be used against these petitioners for arriving at any positive conclusion, there is no other cogent material on record in the case diary so as to connect these petitioners with the offence in question. Learned counsel for the petitioners has also brought on record statements of the informant, his wife and submits that the informant, his wife as well as the friends of the victim had not taken the names of these petitioners before the Court. So far as the petitioner in Cr. Misc.



No.18166/15 Nishat Alam is concerned, learned counsel for the petitioners submits that there is a history of previous enmity and two cases had been lodged by the father and the mother of the victim, both of which were found to be false. In the case of the petitioner In Cr. Misc. No.20625/15 Isteyak Hussain, learned counsel submits that even the name of the father of the said Tinku is at variance.

Learned counsel for the informant submits that actually these two petitioners are hardened criminals and they had taken Supari from one Md. Ali for causing the disappearance of the son of the informant.

Learned counsel for the State has also stated that in the case diary the names of the petitioners have surfaced only because of their confessional statement itself, impermissible for the purposes of arriving at any positive conclusion.

Considering the aforementioned submissions, the period of custody and also the fact that the petitioner Isteyak Hussain has no criminal antecedent whereas petitioner Nishat Alam has been named in two other cases by the same informant which casts a cloud on the informant's story, let the petitioner in Cr. Misc.

No.18166/15 named above and the petitioner in Cr. Misc. No.20625/15 be enlarged on bail upon theirfurnishing the bail-bonds of Rs.10,000/- (ten thousand) each along with two sureties of the like amount each to the satisfaction of learned 2nd Addl. Sessions Judge, Purnea and learned Sessions Judge, Kishanganj respectively, in connection with S. Trial No.104/2015 (arising out of Kishanganj P.S. Case No.438 of 2014).

It is made clear that the petitioners will cooperate in the trial which has already commenced and shall not absent themselves on any two consecutive dates, failing which it shall be open for the informant to take appropriate steps for getting the bail-bonds cancelled.

(Anjana Mishra, J)

K.C.jha/-

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