

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36823 of 2017

Arising Out of PS. Case No.-18 Year-2017 Thana- BANMANKHI District- Purnia
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Md. Salim Son of Md. Idrish , R/o Village- Barmotara, P.S.- Bhargama,
District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Criminal Miscellaneous No. 38028 of 2017

Arising Out of PS. Case No.-18 Year-2017 Thana- BANMANKHI District- Purnia
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Md. Idrish S/o Late Safid, Resident of Village- Barmotra, P.S. Bhargama,
District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :
(In Criminal Miscellaneous No. 36823 of 2017)
For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Amarnath Jha
For the Opposite Party/s : Mr. M. Dayal, APP
(In Criminal Miscellaneous No. 38028 of 2017)
For the Petitioner/s : Mr. Amarnath Jha
For the Opposite Party/s : Mr. SRI BINOD KUMAR 2

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL**

ORAL ORDER

3 19-09-2017 Heard Mr. Ramakant Sharma, learned Senior Counsel for

the petitioners in support of both the applications wherein Md.

Idrish and his son Md. Salim have prayed for grant of

anticipatory bail in connection with Banmankhi P.S. Case No.

18 of 2017 registered under Sections 302/34 of the Indian Penal

Code and Section 27 of the Arms Act.



The informant is not an eye witness to the assault on his brother who, while returning home, was assaulted. The prosecution case is that on getting the information about assault while the victim was being carried along with other villagers and relatives, he disclosed names of several co-accuseds in the commission of crime which includes both the petitioners. Learned counsel submits that considering the injuries sustained by the deceased, it was not possible for him to be in a state of consciousness and disclose with such detail the incident. It is also submitted that several months after the incident, a co-accused was apprehended who made confessional statement accepting himself as the contract killer. His statement only indicates that a conspiracy was hatched where the petitioners were also present. It is further submitted that some of the co-accuseds, similarly placed, have been granted privilege of regular bail by this Court.

Mr. Dayal, APP for the State and the informant opposed the prayer. They submit that it is a case of oral dying declaration. What shall be the value of such declaration will be a matter of consideration at the trial. The complicity of the petitioners have found support during the investigation.

Considering the nature of allegation levelled against the



petitioners, this Court is not inclined to extend privilege of anticipatory bail to the petitioners. Prayer is refused. It shall be open to the petitioners to surrender and pray for bail bringing to the notice of the learned Court below all the relevant facts including the grant of regular bail to some of the co-accused of the present case.

(Kishore Kumar Mandal, J)

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