

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16899 of 2019

Arising Out of PS. Case No.-716 Year-2018 Thana- SIWAN MUFFASIL District- Siwan

1. KHALID @ BITTU, aged about 20 years(male), son of Shakil @ Raju Mian, Resident of Village-Khagaura, Police Station-Dhanauti O.P., District-Siwan
2. Ashlam Miya, aged about 40 years(male), son of Wakil Mian
3. Sahjadi Praveen, aged about 35 years(female), wife of Ashlam Miya, 2 and 3 are resident of village-Khalishpur, Police Station-Dhanauti O.P., District-Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ajay Kumar Tiwary
For the Opposite Party/s :	Mr.Shailendra Kumar
	Mr. Prashant Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 25-03-2019 Heard both sides.

The petitioners apprehend their arrest in Siwan Muffasil P.S. Case No.716 of 2018 registered under Sections 341, 324, 326, 307, 504, 506, 120(B)/34 of the Indian Penal Code.

The informant alleged that Shakil @ Raju Mian and his son, Khalid @ Bittu were trying to take possession of the land of the informant. When Sheikh Rajiullah @ Vicky, son of the informant protested, Shakil @ Raju Mian, who is not the petitioner, threatened the son of the informant and asked him to flee away failing which he would be shot dead. It is further



alleged that in the meantime, Khalid @ Bittu(petitioner No.1) caught the son of the informant and Shakil @ Raju Mian shot in abdomen and arm of the son of the informant. The informant further alleged that Ashlam Miya, petitioner No.2 and Sahjadi Praveen(petitioner No.3) are the conspirators and at their instance, the accused persons committed the occurrence.

The learned counsel for the petitioners submits that there is no allegation of assault against Ashlam Miya and Sahjadi Praveen(petitioner Nos.2 and 3). They are alleged to be conspirators but no action in pursuance of any conspiracy is alleged. It is a case of land dispute. The petitioners are claiming the lands by virtue of their share.

On the other hand, learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submitted that petitioner No.1(Khalid @ Bittu) caught Rajiullah and only thereafter, Shakil @ Raju fired two shots which hit in the abdomen and arm of Rajiullah.

Having considered the facts that there is specific allegation against Khalid @ Bittu(petitioner No.1) that he caught Rajiullah and only thereafter, Shakil @ Raju fired at him causing injury on his abdomen and arm. Therefore, I am not inclined to enlarge the petitioner No.1, namely, Khalid @ Bittu



on anticipatory bail. Accordingly, the same is rejected.

So far as the case of petitioner Nos.2 and 3 is concerned, the informant did not allege any overt act on their parts. The informant simply alleged that they were conspirators but no story for hatching of conspiracy is disclosed nor any act is alleged to have been done by the petitioner Nos.2 and 3 in pursuance of any such conspiracy. On the face of it, it appears that there is bonafide land dispute between the parties on account of demand of share.

Considering the aforesaid facts, let the petitioner Nos.2 and 3, namely, Ashlam Miya and Sahjadi Praveen, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Siwan in connection with Siwan Muffasil P.S. Case No.716 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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