

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69945 of 2018

Arising Out of PS. Case No.-644 Year-2018 Thana- KOTWALI District- Patna

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Anzar Khan @ Md. Anzar Ahmad Khan, Son of Md. Wadood Khan, resident of Near Masjid, Samaspur, Police Station- Bela, District Gaya at present Residing in the office of M/s Azam Construction, Ground Floor, Gulmohar Apartment, Salimpur Ahra, P.S. Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 72122 of 2018

Arising Out of PS. Case No.-644 Year-2018 Thana- KOTWALI District- Patna

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Farooque Azam @ Md. Farooque Azam @ Golu, son of Late Md. Shibli, resident of Mohalla Gareria Asthan/ Khand, P.S. and District- Jehanabad, at present residing at 304 Kulharia Palace, P.S. Pirbahore, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 69945 of 2018)

For the Petitioner/s : Mr.Ravindra Kumar Shukla, Advocate.

For the Opposite Party/s : Mr.Sri Jai Narain Thakur, APP

(In CRIMINAL MISCELLANEOUS No. 72122 of 2018)

For the Petitioner/s : Mr.Ravindra Kumar Shukla, Advocate.

For the Opposite Party/s : Mr.Sri Jai Narain Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

11 13-05-2019 Heard learned counsel for the petitioners, learned counsel for the informant and the learned A.P.P. for the State.

Since the petitioner of both the aforesaid applications apprehended his arrest in connection with Kotwali P.S. Case No. 644 of 2018, registered under Sections 302 and



120(B) of the Indian Penal Code and Section 27 of the Arms Act, therefore, both the applications have been heard together and are being disposed of by this common order.

The accusation is that on 21st September, at about 1 P.M., Tabrej Alam @ Tabbu, husband of informant, Shamma Praveen, had gone to Mosque to offer the Friday prayer. When her husband, Tabrej Alam @ Tabbu came out from Mosque at 3.00 P.M. and proceeded towards his vehicle, which was standing near Indian Gas Agency, Kotwali, both petitioners along with Rumi Mallick, Tarikh Mallick, Guddu, Bablu and Dablu shot fire at Tabraj Alam @ Tabbu, husband of the informant. Her husband, Tabraj Alak @ Tabbu was usually talking at the time of breakfast and lunch to the informant that aforesaid persons may commit his murder at any time. In the month of December, 2017, they made attempt to kill her husband, regarding which, an F.I.R. was instituted in Kotwali Police Station. Further claim is that since three months, the land dispute is going on in between her husband and the accused.

Learned counsel for the petitioners submits that it would appear from the F.I.R. that informant, wife of the deceased, Tabrej Alam @ Tabbu, is not the eye witness of the occurrence and she had given her Fradbeyan in Emergency



Ward at PMCH. Further submission is that while the informant had claimed in the F.I.R. that in December, 2017, attempt was made by the petitioners and others to kill her husband, but it would appear from Annexure 4 to the Supplementary Affidavit that Deceased, Tabrej Alam, husband of the informant, had lodged Patna Kotwali P.S. Case No. 717 of 2017, under Sections 384 and 506/34 of the Indian Penal Code against three persons and some unknown persons but the name of the petitioners were not disclosed by the deceased, Tabrej Alam, as accused in the aforesaid F.I.R. and no any document has been brought on record in course of investigation regarding civil dispute as detailed in the Fradebyan by the informant. Further submission is that Md. Alam and Md. Sahnawaj Alam, own brother of the deceased, are shown as witnesses of inquest report of the deceased and both have stated in paragraph 23 of the case diary that they were not present on the place of occurrence when the occurrence took place. Later on, in CCTV footage, two persons were identified making firing on the deceased and fleeing away from the place of occurrence, as detailed in paragraph 25 of the case diary. Thereafter, one Hasan Ali, claiming himself to be eye witness of occurrence gave his statement before the police as detailed in paragraph 63 of the case diary that Guddu and



Bablu shot fire at the deceased and also disclosed that both petitioners were present in suspicious condition there, except that nothing has been collected by the Investigation Officer, showing the involvement of the petitioners in the present case. Further submissions that petitioners have falsely been implicated in this case mere on suspicion.

Learned counsel for the informant opposed the prayer for bail and submits that after two months of the occurrence, on 02.11.2018, police recorded the statement of Tanveer Alam (one of the witness of inquest) on 02.11.2018, in which, he disclosed that at the time of making firing by Guddu and Bablu, both petitioners were sitting in the vehicle near the place of occurrence and they identified the deceased, husband of the informant, thereafter, he was shot fire. Later on, police got recorded the confessional statement of Tarique Haidar, as detailed in paragraph 155 of the case diary, who disclosed that petitioners being the conspirator were present at the place of occurrence.

Having regard to the facts and circumstances of the case, let the above named petitioners be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond



of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Patna, in connection with Kotwali P.S. Case No. 644 of 2018, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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