

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63860 of 2019

Arising Out of PS. Case No.-741 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. AZAD HUSSAIN Son of Aizaj Hussain @ Ejaj Hussain Resident of Village-Mansha Tola, P.S.-Bettiah Muffasil, District-West Champaran at Bettiah.
 2. Aizaj Hussain @ Ejaj Hussain Son of Akhtar Hussain Resident of Village-Mansha Tola, P.S.-Bettiah Muffasil, District-West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Tabrej Alam Son of Late Md. Reyaj Resident of Village-Mansha Tola, P.S.-Bettiah Muffasil, District-West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vibhakar Kumar
For the Opposite Party/s : Mr.Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 24-10-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 409, 420, 467, 468, 471, 182, 211, 120 of the Indian Penal Code, cognizance taken under Sections 420, 467, 471, 120(B) of the Indian Penal Code registered in connection with Complaint Case No. 741-C of 2017.

3. It is submitted that the petitioners who are the prosecution witnesses in Bettiah Muffasil P.S. Case No. 719/2015 lodged by co-accused Md. Kaish against the complainant have been falsely implicated. It is submitted that the complainant has also implicated various authorities such as, the I.O., Doctor, S.H.O., the informant and other officers in the present case. Other co-accused Syad Zafar Imam and Akhtari Khatoon @ Munni have



been granted anticipatory bail by this Court in Cr. Misc. No. 48429 of 2019. The petitioner no. 1 is accused in two prior cases in which he is on bail, while petitioner no. 2 is accused in one prior case namely, Bettiah Town P.S. Case No. 240/1996, in which he is on bail. A statement is made at the Bar that the complainant is convicted in Sessions Trial No. 483 of 2017 relating to Bettiah (M) P.S. Case No. 719 of 2015 in terms of judgment dated 13.03.2018 passed by learned Additional Sessions Judge-V, West Champaran.

4. Learned counsel for the complainant appearing *suo motu* submits that the petitioners are threatening the complainant and for which a petition being Case No. 14/3MK/19 has been filed before the Sub-divisional Officer, Bettiah Sadar. It is further stated that the petitioner no. 2 has suppressed his criminal antecedents as he is accused in seven other cases namely, Bettiah Town P.S. Case No.336 of 1987, Bettiah Town P.S. Case No. 145 of 1989, Bettiah Town P.S. Case No. 70 of 1991, Bettiah Town P.S. Case No. 20 of 1994, Bettiah Muffasil P.S. Case No. 36 of 1989, Bettiah Muffasil P.S. Case No. 319 of 1992 and Bettiah Mufassil P.S. Case No. 164 of 1993.

5. Be that it may, in the event of petitioners' arrest or surrender within six weeks hereof let the above named petitioner no. 2 be released on provisional bail and the petitioner no. 1 be released on bail on furnishing bail bond of Rs.10,000/- [ten thousand] each with two sureties of like amount each to the satisfaction of learned CJM, Bettiah in connection with Complaint Case No. 741-C of 2017, subject to the conditions as laid down under Section 438(2) Cr.P.C. and also subject to the following further conditions:

(i) That one of the bailors shall be a close relative of the petitioners.



(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioners shall co-operate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) The petitioners shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

6. The provisional bail granted to petitioner no. 2 shall be confirmed by the learned Court below within a further period of four weeks after furnishing bail bond upon verification with respect to the criminal antecedents of the petitioner no. 2. If it is found that he is accused in any case other than Bettiah Town P.S. Case No. 240/1996, his bail bond shall stand automatically cancelled. conversely, the same shall stand confirmed.

(Vikash Jain, J)

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