

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5569 of 2020

Arising Out of PS. Case No.-556 Year-2019 Thana- PURNEA SADAR District- Purnia

1. Mir Kadir @ Md. Mir Kadir @ Md. Abdul Kadir @ Kadir @ Mir Quadir Son of Late Mir Wali Resident of Village- Mir Tola Basantpur Pokharia, P.S.- Sadar, Distt- Purnea.
2. Md. Afroz Alam @ Afroz Alam S/o Mir Kadir @ Md. Mir Kadir @ Md. Abdul Kadir Resident of Village- Mir Tola Basantpur, Pokharia, P.S.- Sadar, Distt- Purnea.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjay Sinha
For the Opposite Party/s : Mr. Brajendra Nath Pandey

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 28-02-2020 Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners seek pre-arrest bail in connection with Purnea Sadar P.S. Case No. 556 of 2019 registered under Sections 341, 353, 323 and 504 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act.

Learned counsel for the petitioners submitted that save and except Section 353 of the Indian Penal Code, all other offences are bailable in nature. The institution of an FIR for the offence under Section 138 of the Negotiable Instruments Act is bad in law as only a complaint would lie before the court for the said offence. It is contended that as far as Section 353 of the



Indian Penal Code is concerned, there is no allegation that the petitioners assaulted the informant or anyone else. Allegation in the first information report is that when a demand was made from the petitioners for payment of the due amount and it was disclosed that non-payment would result into disconnection of the electricity in their premises, they became violent and abused the informant and others and picked up a brick and threatened the officials of the Electric Supply Division, Zero Mile. It is next contended that the said allegation of the informant made in the first information report is concocted and an afterthought as the alleged occurrence is said to have taken place on 30.10.2019 at 01:30 PM, but the first information report was instituted after two days on 1.11.2019 at 04:40 PM and there is no explanation for the undue delay caused in filing the FIR.

Learned counsel for the State while opposing the prayer for bail submitted that the ingredients of the offence punishable under Section 353 of the Indian Penal Code are clearly attracted in the present case.

Regard being had to the submissions made on behalf of the parties, especially, the delay of two days caused in institution of the FIR, in the event of arrest or surrender before the court below, the petitioners named above are directed to be



released on bail, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea in connection with Purnea Sadar P.S. Case No. 556 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Ashwani Kumar Singh, J)

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