

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11880 of 2020

Arising Out of PS. Case No.-579 Year-2018 Thana- KISHANGANJ District- Kishanganj

1. MOKIM ALAM @ MOKIM Son of Md. Shahid @ Late Sadique Ali Resident of Village - Sahapur (Shahapur), P.S. - Gowalpokhar (Goalpokhar), District - Uttar Dinajpur.
2. Azad @ Md. Azad Hussain Son of Md. Shahid @ Md. Yadullah Resident of Village - Sahapur (Shahapur), P.S. - Gowalpokhar (Goalpokhar), District - Uttar Dinajpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Kumar, Adv.

For the Opposite Party/s : Mr.Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 07-09-2020 Heard learned counsel for the petitioners and learned APP for the State, through video conferencing.

The petitioners have filed the instant application for grant of anticipatory bail in connection with Kishanganj P.S. Case No. 579 of 2018 registered under sections 302, 353, 333 and 34 of the Indian Penal Code and section 27 of the Arms Act.

As per allegation in the FIR, when the informant along with other police personnel was in night patrolling, it is stated that after midnight at about 1.45 a.m., he heard a sound of shooting from inside the godown. On the police personnel reaching there, the accused persons, who were in the godown came to know about the presence of police, started making an



attempt to escape and in the firing one of the hawaldar was injured. Three of the accused persons were caught and disclosed the name of the nine accused persons including the two petitioners herein who had managed to escape.

It is submitted by learned counsel for the petitioners that for the same occurrence, two FIRs as contained in Annexure-1 and Annexure-2 was registered. The petitioners have been enlarged on anticipatory bail vide order dated 24.8.2020 passed in Cr. Misc. No. 11849 of 2020 in the case, FIR of which is Annexure-2. He submitted that the allegation and FIR being for the same occurrence, the petitioners may be enlarged on bail in the instant case also. It is further submitted that the name of the petitioners transpired in the confessional statement of co-accused made before the police. No incriminating material was recovered from their possession and besides these two cases, FIRs of which are Annexure-1 and Annexure-2, the petitioners have no other case against them.

The application for bail is opposed by learned APP for the State and submitted that the FIRs in Annexure-2 and Annexure-1 are of two distinct and different occurrences.

Having heard learned counsel for the parties and on going through the two FIRs, the submissions made on behalf of



the petitioners, grant of bail to the petitioners for the FIR which is at Annexure-2 and the petitioners having no criminal antecedent, the Court is inclined to enlarge the petitioners on anticipatory bail. The petitioners are directed to surrender in the Court below within a period of eight weeks from today and in the event of their arrest or surrender in connection with Kishanganj P.S. Case No. 579 of 2018, they shall be enlarged on bail on each of them furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kishanganj subject to the conditions as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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