

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 11849 of 2020

Arising Out of PS. Case No.-578 Year-2018 Thana- KISHANGANJ District- Kishanganj

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1. AZAD @ MD. AZAD HUSSAIN S/o Late Md. Shahid @ Late Sadique Ali
 2. Mokim Alam @ Mokim S/o Md. Shahid @ Md. Yadullah
Both are Resident of Village- Sahapur (Shahapur), P.S.- Gowalpokhar
(Goalpokhar), District - Uttar Dinajpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Raj Kumar, Adv.
For the Opposite Party/s : Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 24-08-2020 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 apprehending their arrest in connection with Kishanganj P.S. Case No. 578 of 2018 registered under sections 395 and 397 of the Indian Penal Code, sections 3 and 4 of the Explosive Substance Act and sections 25(1-B)(a), 26, 27 and 35 of the Arms Act to which section 412 and 396 of the Indian Penal Code were added subsequently.

As per allegation in the FIR, when the informant was sleeping after finishing his work in his godown, he woke up at about 2 a.m. after seeing that several persons had jumped inside



the boundary wall. Soon thereafter the accused persons started assaulting the night guard. On coming to know about the presence of police, they started to flee. One person was stabbed in his stomach, they also opened fire, injuring a hawaldar, who died in course of treatment. It is stated that while one of the accused persons died in the police firing, three of them were caught. The caught accused persons disclosed the name of the persons who had managed to escape, the two petitioners being amongst them.

It is submitted by learned counsel for the petitioners that neither the petitioners were arrested at the spot nor has any incriminating article being recovered from their possession. They have been falsely implicated in the case. Their names transpired in the confessional statement of co-accused made before the police. No illegal or looted article has been recovered from their possession to connect them with the crime in question.

The application for bail is opposed by learned APP for the State who submits that besides the petitioners being actively involved in the occurrence, they also have one another case against them.

Having heard learned counsel for the parties and



taking into consideration the submissions made on behalf of the petitioners together with the fact that no incriminating article has been recovered from their possession to connect them with the instant crime, 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. 578 of 2018, they shall be enlarged on bail on each of them on 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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