

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8109 of 2020

Arising Out of PS. Case No.-483 Year-2019 Thana- PHULWARISHARIF District- Patna

SAHEB @ MOHMAD SAHBAZ KHAN @ SAHBAJ, S/o Md. Sonu @ Md. Shabbir Imam @ Sonu, Resident of Khalilpura, P.S.- Phulwari Sharif, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 18647 of 2020

Arising Out of PS. Case No.-483 Year-2019 Thana- PHULWARISHARIF District- Patna

MD. WASIF, S/O Md. Ashraf @ Asharaf Hussain, R/O Mohalla - Bauliper, P.S. Phulwarisharif, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 8109 of 2020)

For the Petitioner/s :

For the Opposite Party/s : Mr.Choubey Jawahar, APP

(In CRIMINAL MISCELLANEOUS No. 18647 of 2020)

For the Petitioner/s : Ms. Rina Sinha, Adv.

For the Opposite Party/s : Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 30-06-2020 Both the matters have been taken up through virtual Court proceeding.

The petitioner, Saheb @ Mohmad Sahbaz Khan, who is languishing in custody since 28.05.2019 has preferred the application for grant of bail vide Criminal Miscellaneous No. 8109 of 2020 and the petitioner, Md. Wasif, who is languishing



in custody since 15.08.2019 has preferred the application for grant of bail vide Criminal Miscellaneous No. 18647 of 2020 in a case registered for the offences punishable under Section 302/34 of the Indian Penal Code.

The prosecution case as per the fardbeyan of Md. Jashim @ Pakki, recorded by Inspector-cum-S.H.O., Phulwari Sharif Police Station on 19.05.2019 at 1.15 P.M. is to the effect that the son of the informant Md. Dilnawaj @ Lovely used to work as painter and one of his co-worker, Saheb @ Mohmad Sahbaz Khan (petitioner in Criminal Miscellaneous No. 8109 of 2020) took him on a Pulsar motorcycle. Subsequently, the informant came to know that his son has been killed by his friends, leading to registration of the FIR against Md. Aalaya and Saheb @ Mohmad Sahbaz Khan. Though, Md. Wasif is not named in the FIR. His name sprang up on the confession of petitioner, Saheb @ Sahbaz Khan.

None appears on behalf of the petitioner Md. Saheb @ Sahbaz Khan in Criminal Miscellaneous No. 8109 of 2020.

Ms. Rina Sinha, learned counsel appearing on behalf of the petitioner Md. Wasif submits that the petitioner is not named in the FIR. His name sprang up on the confession of petitioner, Saheb @ Mohmad Sahbaz Khan and there is no recovery from



the possession of the petitioner. Though the petitioner is accused in 5 other cases, but he has been granted bail in all those cases.

From the pleading of Criminal Miscellaneous No. 8109 of 2020, it appears that the petitioner confessed that the FIR named accused person, including the petitioner, had some dispute with the victim with regard to share of booti, as a result, the victim was killed. Though initial assault was made by co-accused, Alia and Sibbu and thereafter all the accused persons assaulted the victim with bricks. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent and the investigation has already been concluded.

Learned APP for the State submits that the petitioner Md. Wasif has serious criminal antecedent and his name sprang up in the present case, on the basis of confessional statement of petitioner, Saheb @ Mohamad Sahbaz Khan.

Considering the fact that the confession did not lead to any recovery, the investigation already being concluded, let the petitioners above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned A.C.J.M.-cum-Sub-Judge, XV, Patna, in connection with Phulwari Sharif P.S. Case No. 483 of 2019.



However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned A.C.J.M.-cum-Sub-Judge, XV, Patna, in connection with Phulwari Sharif P.S. Case No. 483 of 2019.

The learned Court below will further be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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