

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25156 of 2020

Arising Out of PS. Case No.-271 Year-2020 Thana- AKBARPUR District- Nawada

1. Md. Neyazuddin S/o Md. Faiyaz Ahmad Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
2. Md. Sarfraj S/o Late Haneef Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
3. Md. Samim S/o Md. Alam Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
4. Md. Alam S/o Late Md. Haneef Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
5. Md. Afridi S/o Md. Samsher Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
6. Md. Sahbaz S/o Md. Moin Uddin Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
7. Md. Shahid Nawaz S/o Md. Sajid Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
8. Md. Arsad S/o Md. Moin Uddin Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
9. Tufail Khan S/o Parwez Alam Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
10. Md. Zishan Hussain S/o Md. Alam Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
11. Kashif Mahboob S/o Mahboob Alam Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
12. Md. Tausif S/o Md. Khalil Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
13. Mahfuz Alam S/o Md. Alam Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.
14. Saftar Ali S/o Late Moin Resident of Village-Pithauri, P.S.-Akabarpur, District-Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Yadav, Advocate
For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

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22-09-2020

The matter has been taken up through virtual



Court proceeding.

Since the court proceeding is non-functional in physical mode due to the present pandemic COVID-19, the matter is listed with defects.

Learned counsel for the petitioners undertakes to remove the defects within three weeks of the resumption of the physical Court proceedings.

In case of non-removal of the defects within undertaken period, the office shall place the matter before the bench.

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners are languishing in custody since 30.05.2020 in a case registered for the offences punishable under Sections 25(1-B) a, 26, 35 of the Arms Act, 1959.

The prosecution case as per the written report of Md. Sahroz Akhtar, S.I of Police, submitted to the S.H.O, Akbarpur Police Station is to the effect that on



30.05.2020, the informant received an information that 15-20 persons armed with weapons are arriving in the house of Md. Israfil. Consequently, raid was laid in the village Pithauri when on seeing the police party, 15-20 persons were standing with arms entered into the house. However, after repeated request, they opened the door and 15 persons were apprehended including the petitioners. From the house in question, one country made pistol, two riffles, eighteen live cartridges, two swords and twenty bamboo sticks were recovered.

Learned counsel for the petitioners submits that recovery has not been made from conscious physical possession of the petitioners rather the same has been recovered from the house which does not belong to any of the petitioners, a statement to that effect has been made in para 12 of the petition and the investigation has already been concluded. It is further submitted that for the same occurrence, two F.I.Rs were registered being Akbarpur P.S. Case No. 269 of 2020 and the present



one, while third F.I.R, being Akbarpur P.S. Case No. 270 of 2020 has also been registered for the same incidence.

A statement has been made in para 3 of the petition that petitioner Nos. 1,2,3,6,7,8 and 12 are accused in one other case, petitioner Nos. 5 and 9 are accused in two other cases whereas petitioner Nos. 4, 10, 11, 13 and 14 are not having any criminal antecedent.

Learned A.P.P submits that petitioners were found variously armed and on arrival of the Police, they entered into a house from where arms were recovered.

Considering the fact that investigation has already been concluded and the F.I.R suggests recovery from the house which does not belong to the petitioners, 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 learned Chief Judicial Magistrate, Nawada in connection with Akbarpur P.S. Case No. 271 of 2020.



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 petitioners 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. 10,000/-(ten thousands) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Akbarpur P.S. Case No. 271 of 2020 including one surety given at the time of provisional bail.

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



Accordingly, the present application stands
disposed of.

(Dinesh Kumar Singh, J)

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