

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23197 of 2021**

Arising Out of PS. Case No.-4 Year-2020 Thana- JIYAPOKHAR District- Kishanganj

1. RIYAZ ALAM @ MD. RIYAZ S/o Muktar Ali R/o village- Jiyapokhar, P.S.- Jiyapokhar, District- Kishanganj
2. SAKIL ALAM @ MD. SALIL S/O AKHTAR HUSSAIN R/o village- Jiyapokhar, P.S.- Jiyapokhar, District- Kishanganj

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh

For the Opposite Party/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 15-02-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders” under the orders of Hon’ble the Chief Justice.

Learned counsel for the petitioners is directed to remove the defect(s), as pointed out by the office, within a period of four weeks after restoration of normalcy.

Heard learned counsel for the petitioners and the State through virtual mode.

The petitioners are apprehending their arrest in Jiya Pokhar P.S. Case No. 04 of 2020 initially registered under Sections 147, 149, 341, 323, 324, 307, 332, 333, 355, 353 and 120(B) of the Indian Penal Code in which, later on, Section-302 of the Indian Penal Code



was also added.

Prosecution case in short is that a scuffle took place between the SSB personnel and cattle smugglers on Nepal border and in the said scuffle, one SSB Jawan died.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. The petitioners have been falsely implicated in the present case. A case was instituted against five named persons along with 20-25 unknown persons. In course of investigation, no direct evidence has come to implicate the petitioners. The other co-accused with similar allegation have been granted anticipatory bail by a coordinate bench of this court vide order dated 25-10-2021 passed in Cr. Misc. No. 21317 of 2021.

On behalf of the State, it is submitted that the petitioners are not named in the Complaint Case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances of the case,



the petitioners, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bonds to the satisfaction of learned Chief Judicial Magistrate, Kishanganj in connection with Jiya Pokhar P.S. Case No. 04 of 2020 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioners shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

A.K.V.//-

U		T	
---	--	---	--

