

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28628 of 2022

Arising Out of PS. Case No.-291 Year-2021 Thana- BISFI District- Madhubani

1. MD JIYA Son of Md. Mohsin Resident of Village - Balha, P.s.- Bisfi, Distt.- Madhubani.
2. Md. Barsat Son of Late Lalbabu Resident of Village - Balha, P.s.- Bisfi, Distt.- Madhubani.
3. Md. Shamsheer @ Shamse Alam Son of Md. Hasim Resident of Village - Balha, P.s.- Bisfi, Distt.- Madhubani.
4. Md. Nemtullah Son of Late Ahmadullah Resident of Village - Bangara Tola, P.s.- Bisfi, Distt.- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ravi Ranjan
For the Opposite Party/s	:	Mr.Satya Nand Shukla
		Mr. Gagan Deo Yadav

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 26-09-2022 Heard learned counsel for the parties.

The petitioners apprehend their arrest in a case registered for the offence under Section 307 & other allied sections of the Indian Penal Code and Sections 27 of the Arms Act.

The prosecution case, in brief, is that on 13.12.2021 at about 11 AM, all the accused persons including these petitioners, armed with deadly weapons, abused the informant and thereafter, petitioner No.1 fired from his pistol on the brother of informant, but luckily it did not hit him. It is further



alleged that petitioner No.3 assaulted with butt of pistol on the head of informant due to which informant sustained head injury. Thereafter, other accused persons snatched gold chain from the neck of the informant.

It is submitted on behalf of petitioners that petitioners have falsely been implicated in this case. No such occurrence, as alleged in the FIR, has ever taken place. As a matter of fact present prosecution party is dominant in the area and he has committed similar occurrence for which petitioner No.1 has lodged Bisfi PS case No. 295/ 2021. Though petitioner No.1 is alleged to have fired but no one sustained any injury. It is next submitted that similarly situated accused, Md. Israil @ Israil and Md. Rezauddin have already been granted pre arrest bail by this court vide orders passed in Cr. Misc. No. 22828/ 2022 and in Cr. Misc. No. 17773/ 2022.

Learned A.P.P. for the State and the informant has opposed the prayer and submits that petitioners are named in the FIR and there is specific allegation against them of firing and causing injury by butt of pistol. It is further submitted that case of petitioners is different and distinguishable from the case co-accused who were allowed anticipatory bail because one of them, Md. Israil, was simply a member of unlawful assembly



while in the case of Md. Rezauddin his motor cycle was seized from the place of occurrence. Petitioner No.1, 3 and 4 have got criminal antecedent.

Considering the nature of accusation and criminal antecedent of the petitioners No. 1, 3 and 4, I am not inclined to enlarge the petitioners on anticipatory bail. Accordingly, the same is rejected.

However, since the petitioner No.2 has got no criminal antecedent and no specific allegation, his prayer for anticipatory bail is allowed.

Let the petitioner No. 2, above named, in the event of his arrest/ surrender within a period of six weeks from today shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-I, Benipatti, Madhubani in connection with Bisfi PS case No.291/ 2021, subject to conditions laid down u/s 438(2) of the Cr. P. C.

(Prabhat Kumar Singh, J)

BKS/-

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

