

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40665 of 2021

Arising Out of PS. Case No.-679 Year-2018 Thana- NAGAR District- Vaishali

1. MD. KHURSHID @ NANHAKI Son of Bhakhani Makhbool @ Md. Makbool Resident of Masjid Chowk, Near Nakhas Road, Marvari Mandir, Police Station- Hajipur Town, District- Vaishali.
2. Md. Asgar S/o Md. Khurshid @ Khurshid Alam Resident of Masjid Chowk, Near Nakhas Road, Marvari Mandir, Police Station- Hajipur Town, District- Vaishali.
3. Md. Ashik @ Md. Ashique Iqbal @ Md. Ashiq @ Md. Ashik Ekabal S/o Makbul Ahmad @ Bhakni Makhmool Resident of Masjid Chowk, Near Nakhas Road, Marvari Mandir, Police Station- Hajipur Town, District- Vaishali.
4. Md. Bedami @ Saddam @ Bedami @ Md. Shaddam Son of Rasid Khan Resident of Masjid Chowk, Near Nakhas Road, Marvari Mandir, Police Station- Hajipur Town, District- Vaishali.
5. Mohammad Bashir @ Md. Basir @ Bhujali @ Bhujali Miyan S/o Late Ahmad Hussain Resident of Masjid Chowk, Near Nakhas Road, Marvari Mandir, Police Station- Hajipur Town, District- Vaishali.
6. Md. Safi Alam @ Safi Alam @ Sakhi Miyan @ Sati Alam Son of Makbul Ahmad @ Bhakhni Makmool Resident of Masjid Chowk, Near Nakhas Road, Marvari Mandir, Police Station- Hajipur Town, District- Vaishali.
7. Md. Aiyajuddin @ Md. Aiyazuddin S/o Md. Moinuddin @ Md. Mohiyuddin Resident of Chaudhary Mubarak Ali, Mahajan Toli, Police Station- Hajipur Town, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr.Md. Soban Asghar, Advocate
For the State	:	Mr.Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 14-02-2022 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.



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

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.

Counsel for the petitioners seeks permission to withdraw the present application on behalf of petitioner No.1, as the petitioner No.1 has been taken into judicial custody.

Permission is accorded.

The application filed on behalf of petitioner No.1 is dismissed as withdrawn.

The petitioner Nos.2 to 7 are apprehending their arrest in connection with Hajipur Town P.S. case No.679 of 2018 registered under Sections 451, 427, 436, 379, 352, 254, 307/34 of the Indian Penal Code.

The prosecution case, in short, is that the accused persons including the petitioner Nos.2 to 7 after forming unlawful assembly attacked on the house of the informant and having entered in the informant's house they committed loot and co-accused Md. Khurshid @ Nanhaki gave sword blow on the head of the informant's son, due to which he got injured seriously and the accused persons also set the informant's house



on fire.

It has been submitted on behalf of the petitioner Nos.2 to 7 that the petitioner Nos.2 to 7 have got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the petitioner Nos.2 to 7. The petitioner Nos.2 to 7 have falsely been implicated in this case. It has further been submitted that a petition has been filed in the court below by the informant, where she has retracted from her earlier statement made in the F.I.R.

On behalf of the State, it is submitted that the petitioner Nos.2 to 7 are 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 facts and circumstances, the petitioner Nos.2 to 7, 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 bond to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Hajipur Town P.S. case No.679/2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner Nos.2 to 7 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)

Narendra/-

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