

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38120 of 2022

Arising Out of PS. Case No.-45 Year-2022 Thana- NIMCHAKBATHANI District- Gaya

1. Md. Ali Imam, Son of Md. Iliyas.
2. Syed Alam @ Md. Syed Alam, Son of Late Seraj Mian
Both are Resident of Village - Jharma Saren, P.S.- Neemchak Bathani,
District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shakil Ahmad Khan, Advocate

For the Opposite Party/s : Mr. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 29-09-2022 Heard learned counsel for the petitioners and the
learned APP for the State.

Let the defect(s) be removed within four weeks of the
complete start of the physical Court in normal course.

The petitioners are in judicial custody in connection
with Neemachak Bathani P.S. Case No.45 of 2022 instituted
under Sections 25(1-b)a, 26, 35 of the Arms Act.

As per the FIR, the police upon information that
accused persons are staying at the house of Raju Khan with
illegal arms, his house was raided. However, despite repeated
request, no one opened the door. Ultimately by force the police
entered and found a cache of arms which included rifle, pistol,
cartridges, magazine etc. Host of accused persons are also there,
petitioner being one of them.



The police thereafter, also raided the house of one Makshud Alam from where also arms were recovered. Accordingly, the seizure list prepared, FIR instituted and all the accused persons present there were arrested.

Learned counsel for the petitioners submit that so far as these two petitioners are concerned there is only recovery/seizure of mobile phone for which they have already suffered by being in custody since 28.03.2022. However, they do have criminal antecedent, a fact the learned counsel concedes.

Taking into account the fact that the house that was raided was that of Raju Khan and Makshud Alam from where cache of arms/ammunitions were recovered/seized and so far as these petitioners are concerned there is only recovery of mobiles are in jail since 28.03.2022 and charge-sheet stands submitted, this Court is inclined to grant him privilege of bail after framing of charges.

Let both the petitioners be released on bail after framing of the charges on furnishing bail bond of Rs.15,000/- (Rupees Fifteen Thousand) with two sureties of the like amount each in connection with Neemachak Bathani P.S. Case No.45 of 2022 to the satisfaction of learned Judicial Magistrate, Ist, Class,



Gaya, subject to following conditions:

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial court itself;

(iii) the petitioners shall leave their district (Gaya) for a period of six month(s) after providing name and address and police station of his place of stay during the said period and he shall be duty bound to visit the police station concerned (where he will stay) every week to mark his attendance;

(iv) upon return to his district, he shall visit the concerned police station every fortnight for the next six months to mark attendance;

(v) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(vi) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty



to take steps for cancellation of their bail bonds.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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