

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47658 of 2021

Arising Out of PS. Case No.-168 Year-2021 Thana- KHAGARIA District- Khagaria

1. Avinash Sah @ Avinash Kumar, S/O Suresh Sah, R/O Village- Madhurapur, P.S- Narayanpur, District- Bhagalpur.
2. Santosh Sah, S/O Doman Sah, R/O Village -Bagdov, P.S- Khagaria (Muffasil), District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Opposite Party/s : Mr. Md. Anbzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-06-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Binod Kumar, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Khagaria (Muffasil) P.S. Case No. 168 of 2021 for the offences punishable under Sections 341, 327, 307, 506/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, in sum and substance, it is alleged that on 17.02.2021 while a Barat Party was proceeding,



in the meantime, petitioner no.1 caught hold the informant and petitioner no.2 fired upon him from his pistol, due to which he sustained grievous fire-arm injury.

Learned counsel appearing on behalf of the petitioners submits that during the course of trial, the informant as well as the other witnesses were examined by the learned trial court and they have not supported the prosecution case, inasmuch as, the parties have settled their disputes and they do not want to proceed any further in the matter. It is also submitted that one of the co-accused, namely, Tilo Sah, has been acquitted and in support of his contention, a supplementary affidavit has also been filed.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation against both the petitioners and the injury report also corroborate the prosecution case.

Having considered the specific nature of accusation that petitioner no.1 caught hold and petitioner no.2 fired upon the informant causing fire-arm injury, this Court is not persuaded to enlarge the petitioners on anticipatory bail. Accordingly, their prayer for grant of anticipatory bail is rejected.



However, if the petitioners surrender before the court below within eight weeks’ from today and pray for regular bail, their bail application would be considered without being prejudiced by this order and taking into account the submissions made on behalf of the petitioners that other co-accused person has been acquitted and the informant and others have not supported the prosecution case.

(Harish Kumar, J)

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