IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.316 of 2022

Arising Out of PS. Case No.-660 Year-2020 Thana- KATIHAR NAGAR District- Katihar

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1. Md. Kamran @ Raja Khan S/O Ahmad Khan Permanent R/O- District Saran, Province Paktika, Afghanistan, At Present Resident At Monajir Apartment, Choudhary Mohalla, Katihar, P.S. And District- Katihar
2. Md. Daud (HAS Been Wrognly Named As Md. Raja Khan In The Fir) @ Shargul Khan S/O Ahmad Khan @ Rahim Khan Permanent R/O- District Saran, Province Paktika, Afghanistan, At Present Resident At Monajir Apartment, Choudhary Mohalla, Katihar, P.S. And District- Katihar

... ... Petitioner/S

Versus

The State Of Bihar

... ... Opposite Party/s

==

with

CRIMINAL MISCELLANEOUS No. 69332 of 2021

Arising Out of PS. Case No.-660 Year-2020 Thana- KATIHAR NAGAR District- Katihar

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1. Fazal Muhammad @ Samut Khan Son Of Abdulla Khan Permanent Resident Of District Saran, Province Paktika, Afghanistan At Present Residing At Monajir Apartment Choudhary Mohalla, Katihar, P.S. And District - Katihar.
2. Md. Daud Son Of Habid Daud Permanent Resident Of District Saran, Province Paktika, Afghanistan At Present Residing At Monajir Apartment Choudhary Mohalla, Katihar, P.S. And District - Katihar.

... ... Petitioner/S

Versus

The State Of Bihar

... ... Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 316 of 2022)

For the Petitioner/s : Mr. Sanjay Singh- Sr. Advocate
Mr. Praveen Kumar- Advocate

For the Opposite Party/s : Mr. Dilip Kumar Sinha- A.P.P.

(In CRIMINAL MISCELLANEOUS No. 69332 of 2021)

For the Petitioner/s : Mr. Rudrank Shivam Singh- Advocate

For the Opposite Party/s : Mr. Rabindra Kumar- A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

3 17-05-2022 **<u>CRIMINAL MISCELLANEOUS No.316 of 2022</u>**

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Heard learned senior counsel for the petitioners and learned APP for the State.

The petitioners seek bail in a case registered for the offences punishable under Sections 414, 420, 467, 468, 470, 471, 120(B)/ 34 of the Indian Penal Code, Section 14/ 14(c) of the Foreigners Act and Section 3/ 4 of the Money Laundering Act.

The learned senior counsel for the petitioners submits that the petitioners are in custody since 16.12.2020, they are persons with clean antecedent and charge-sheet has been submitted in the case.

The learned counsel for the petitioners submits that the informant received information that an Afghan National namely, Ghulam Mohammad is roaming in the town in suspicious condition. Accordingly, the information was forwarded to the superior officials, a team was constituted and thereafter, the said Afghan National was inquired, who disclosed that he has come to India in 2015 on tourist visa and while roaming at various places, lastly started residing at Katihar and in due course met the other Afghani National that is the named co-accused, who were residing in Katihar since long in a rented accommodation on forged name and address and carry out

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illegal business of Hawala and share secret information. Accordingly, the team raided the place of occurrence that is the house of Monazir Hassan and the accused persons were arrested after asking their real name, they were searched, then various articles were recovered from their possession for which they could not give any satisfactory explanation. It is next alleged that by making false documents, the accused persons used to reside in the country and carry out transaction of millions and also procured driving license, Aadhar cards, ATM cards, PAN cards, birth certificates etc.

The learned senior counsel for the petitioners submits that from bare perusal of the allegation as alleged, it would manifest that a general and a swiping allegation has been leveled alleging that it was disclosed by an Afghan National that all the co-accused were into illegal business of Hawala and share secret information, but then during the course of investigation, nothing has come in the case diary to even remotely suggest that what kind of secret information were being passed by the petitioners and the accused persons, which was prejudicial in the interest of the nation.

The learned senior counsel further submits that though it is alleged that the petitioners were found in possession

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of driving license, Aadhar cards, ATM cards, PAN cards, birth certificates etc., but then whether it was forged or fabricated, it required further investigation and the officials whose signatures were found on those documents, they needed to be inquired as to whether the documents were issued by them or it was forged and fabricated, but again the case diary is completely silent with respect to the said facts as none of the official witnesses have been examined whether documents possessed by the petitioner is forged or fabricated. It is further submitted that the petitioners entered into through valid passport and the same would be evident from Para-77 of the case diary wherein it has been recorded that the passport of the petitioners were sent to the Passport Office, Patna from where the authorities sent the passport back to the investigating authorities on the ground that the same needs to be verified from the Afghan Embassy. It is thus, submitted that again the case diary is completely silent that as to whether the passports were sent to the Afghan Embassy or not for further verification.

The learned senior counsel very fairly submits that no doubt, the entry of the petitioners were valid, but they might have extended their stay, but then that in itself does not make them a criminal when they are persons with clean antecedents as

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the police during the course of investigation has not been able to procure any evidence that petitioners have committed any occurrence in the country during their stay.

The learned A.P.P. for the State opposes the bail application, but is not able to meet the submissions made by the learned senior counsel for the petitioners.

Considering the fact that the petitioners are in custody, they are persons with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the submissions made by the learned senior counsel for the petitioners, the petitioners, above-named, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Katihar (Town) P. S. Case No.660 of 2020, subject to the condition that one of the bailors of the petitioners shall be a local person of the District.

The application stands allowed.

CRIMINAL MISCELLANEOUS No. 69332 of 2021

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The learned senior counsel for the petitioners submits that from bare perusal of the allegation as alleged, it would manifest that a general and a swiping allegation has been leveled alleging that it was disclosed by an Afghan National that all the co-accused were into illegal business of Hawala and share secret information, but then during the course of investigation, nothing has come in the case diary to even remotely suggest that what kind of secret information were being passed by the petitioners and the accused persons, which was prejudicial in the interest of the nation.

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The learned A.P.P. for the State opposes the bail application, but is not able to meet the submissions made by the learned senior counsel for the petitioners.

Considering the fact that the petitioners are in custody, they are persons with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the submissions made by the learned senior counsel for the petitioners, the petitioners, above-named, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Katihar (Town) P. S. Case No.660 of 2020, subject to the condition that one of the bailors of the petitioners shall be a local person of the District.

The application stands allowed.

(Satyavrat Verma, J)

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