

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.330 of 2022

Arising Out of PS. Case No.-409 Year-2021 Thana- BANKA District- Banka

1. MD TAJAMUL Son of Late Iltaf Resident of Village - Kharihara, P.S.- Barahat Dar, Distt.- Banka.
2. Md. Basir Son of Late Md. Ameen Resident of Village - Kharihara, P.S.- Barahat Dar, Distt.- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate with
Mr. Nadimul Hasan, Advocate.
For the Opposite Party/s : Mr. Raj Kishore Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 10-10-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. N. K. Agrawal, learned senior counsel for the petitioners duly assisted by Mr. Nadimul Hasan and Mr. Raj Kishore Singh, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Banka P. S. Case No. 409 of 2021 registered for the offences punishable under Sections 395 and 397 of the Indian Penal Code and Section 3/4 of the Explosive



Substances Act.

The prosecution case is based on *fardbayan* of the informant alleging therein that on 25.05.2019 at about 01.55 A.M., while the informant along with one Vikas Sahi being staff of Mahadev Enclave Pvt. Ltd. At Shankarpur Dharmkanta were issuing challans for the truck carrying sand and in the meantime, 5-6 miscreants wearing masks on their faces and having country-made pistols in their hands entered into the office of the informant and took away Rs. 10 Lakh kept in two boxes. It is also alleged that the during the course of fleeing the miscreants made firing from their pistols.

Learned senior counsel appearing on behalf of the petitioners submitted that admittedly the F.I.R. has been instituted against unknown persons, however, during the course of investigation, the name of the petitioners have surfaced on the confessional statement of co-accused Md. Shahrukh and save and except the confessional statement, there is no material suggesting the complicity of the petitioner in the present crime. It is also submitted that during the course of investigation, cash of Rs. 3000/- have been recovered from each of the petitioners, though, the same are not the looted amount rather it was kept for the personal use of the petitioners. It is next submitted that



though, the petitioners are in custody since 04.06.2021 but till date neither they have been put on Test Identification Parade nor any other cogent materials have come against them. It is lastly submitted that the other co-accused persons having more or less similar allegation and from whose possession some cash amount was also recovered, they have already been granted bail by learned co-ordinate Benches of this Hon'ble Court in Cr. Misc. No. 66774 of 2021 and in Cr. Misc. No. 1275 of 2022 vide orders dated 24.05.2022.

On the other hand, learned APP for the State opposed the bail application and submits that from the seizure list, it appears that certain looted amount has been recovered from the possession of the petitioner and co-accused persons have confessed about complicity of the petitioners in the present crime. It is also submitted that both the petitioners are found involved in two other criminal cases.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the F.I.R. has been instituted against unknown persons and the petitioners are in custody for more than one year but till date they have not been put on T.I.P., apart from other co-accused persons having more or less identical allegation have already



been granted bail by learned co-ordinate Benches of this Hon'ble Court, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Banka P. S. Case No. 409 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court



below shall take step for cancelling of bail bond
of the petitioners. However, the acceptance of
bail bonds in terms of the above-mentioned order
shall not be delayed for purpose of or in the
name of verification.

(Harish Kumar, J)

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