

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43358 of 2022

Arising Out of PS. Case No.-656 Year-2020 Thana- TURKAULIYA District- East
Champaran

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1. LAL BABU S/O LATE IMAM ALI Resident of village- Jaisinghpur Tola Retwa, P.S.- Turkauliya District- East Champaran.
 2. NAZIR AHAMD @ NAJIR AHMAD S/O LATE IMAM ALI Resident of village- Jaisinghpur Tola Retwa, P.S.- Turkauliya District- East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shakil Ahmad Khan, Adv.
For the Informant	:	Mr. Ram Adya Singh, Adv.
		Mr. Shailendra Kumar, Adv.
For the State	:	Mr.Rina Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 31-01-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek bail in connection with
Turkaulia P.S. Case No. 656 of 2020 registered for the offences
punishable under Sections 147, 148, 149, 302 of the Indian
Penal Code read with Section 27 of the Arms Act.

As per prosecution case, on 11.09.2020 informant
and his brother were going on motorcycle and in the way
petitioners and others surrounded the informant and his brother
and stopped the motorcycle. It is further alleged that when
informant's brother tried to move ahead then co-accused



Saddam Hussain took out the key from the motorcycle in question and threw it and thereafter co-accused Awsaaf Alam and Asgar Ali asked the rest accused persons to kill both and on this instigation petitioners alongwith others pointed pistol upon the informant and his brother. It is further alleged that when the informant and his brother tried to flee away, petitioners alongwith other caught informant's brother and dashed him down and co-accused Ehteshab Alam and Mustaq Ahmad fired upon informant's brother as a result of which he died on the spot. It is further alleged that informant's brother was brought to Turkauliya Primary Health Centre from where he was referred to Sadar Hospital, Motihari where informant's brother was declared dead by the doctor.

Learned counsel for the petitioners submits that there is only allegation against the petitioners to point pistol upon the informant and deceased. There is no overt-act of assaulting the informant and deceased against the petitioners and allegation levelled against the petitioners are general and omnibus in nature. Petitioners are not the assailant of deceased rather co-accused Ehteshab Alam and Mustaq Ahmad fired upon the deceased. Co-accused Ehteshab Alam has already been granted bail by Co-ordinate Bench of the Court vide Cr. Misc.



No. 21802 of 2021 and on similar allegation co-accused Asgar Ali has already been granted anticipatory bail by co-ordinate Bench of this Court vide Cr. Misc. No. 4211 of 2021. Learned counsel for the petitioners submits that petitioners are in custody since 07.03.2022. Petitioner no. 1 bears criminal antecedent of one case in which he is acquitted and petitioner no. 2 bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

The learned counsel for the Informant as well as learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners by submitting that petitioners have also participated in the alleged occurrence.

Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail by co-ordinate Bench of this Court, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Turkaulia P.S. Case No. 656 of 2020, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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