

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55128 of 2022

Arising Out of PS. Case No.-439 Year-2021 Thana- PURNEA SADAR District- Purnia

1. Kalang @ Mohiuddin @ Mohiya Son Of Abdul Gani R/O Kocheli Rampur Ward No. 8, P.S.- Dagaruwa, Distt.- Purnea
2. Md. Mahbul @ Katua Son Of Sabar Ali R/O Rampur, Ward No. 1, P.S.- Dagaruwa, Distt.- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 16-02-2023 Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

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

Petitioners seek regular bail in connection with Sadar (Muffasil) P.S. Case No. 439 of 2021 registered for the offences punishable under Sections 395 and 397 of the Indian Penal Code.

As per the prosecution, it is alleged that eight to ten miscreants reached at the brick kiln of the informant and

assaulted the staffs of the informant and looted three batteries of tractor, one battery of J.C.B. machine and one battery of Solar light, one ceiling fan, solar inverter and mobile phones of his staffs.

The main submissions advanced by learned counsel Mr. Ajit Kumar Singh appearing for the petitioners are that the petitioners are not named in the FIR and their name surfaced in the confessional statement of co-accused namely Md. Abbas, who has been granted bail by a co-ordinate Bench of this Court vide order dated 10.02.2023 passed in Cr. Misc. No. 58715/2022 and the case of the petitioners stand on better footing from him as from the possession of the petitioners, police did not recover any looted or theft articles. Further submission is that the petitioner No. 1 has criminal antecedent of six cases, which were lodged till the year 2014 and in all these cases petitioner no.1 is on bail while the petitioner No. 2 has criminal antecedent of three cases, which were lodged till the year 2007 and in all these cases petitioner no. 2 is on bail. Further submission is that after petitioners' arrest in the present matter, the petitioners were not put on *Test Identification Parade* and they have been languishing in jail since 30.06.2022.

Learned APP Mr. Sanjay Kumar Tiwary appearing for

the State has opposed the bail prayer made by the petitioners.

In view of the facts, as stated above and mainly the custody period of the petitioners and also the fact that the co-accused Md. Abbas, who revealed the role of the petitioners in the alleged crime of loot, has been granted bail by a co-ordinate Bench of this Court and after the petitioners' arrest, police did not make any attempt to get the petitioners identified by the victims through *Test Identification Parade*, in the opinion of this Court both the petitioners deserve to the privilege of bail. Accordingly, let both the petitioners named-above be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Sadar (Muffasil) P.S. Case No. 439 of 2021.

(Shailendra Singh, J)

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