

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52955 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- BANIAPUR District- Saran

1. RIJWAN ALI Son of Najbuddin Miya.
2. Tajir Ali Son of Late Nasruddin Miya.
3. Nasir Ali Son of Late Nasruddin Miya.
4. Mohammad Maniruddin Miya Son of Late Nasruddin Miya.
5. Md. Javed Son of Ashraf Ali.
6. Kaif Alam Son of Asif Ali.
7. Jahid Ali Son of Late Samruddin Miya.
All Resident of Village - Kanhauli Manohar, P.S.- Baniyapur, District - Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 62829 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- BANIAPUR District- Saran

1. NAJBUDDIN MIYA @ NAJBUDDIN @ NAZMUDDIN S/O LATE ZAHIR MIYA
2. AASHIQ MIYA S/o Najbuddin Miya @ Najbuddin @ Nazmuddin
3. ALTAF ALI @ ILTAF ALI S/o Aashiq Ali
All R/o - Kanhauli Manohar, P.S.- Baniyapur, District- Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 65631 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- BANIAPUR District- Saran

ASHRAF ALI @ ASHRAF MIYA Son of Najbuddin Miya @ Najbuddin @ Nazbuddin Resident of Village- Kanhauli Manohar, P.S.- Baniyapur, District- Saran

... .. Petitioner/s

Versus



The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 65853 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- BANIAPUR District- Saran

1. AZAD ALI Son of Sarfuddin Miya @ Sarfudin
2. BHOLA MIYA Son of Samruddin Miya
Both Resident of Village- Kanhauli Manohar, P.S.- Baniyapur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 52955 of 2022)

For the Petitioner/s : Mr.Harish Kumar, Advocate
For the Opposite Party/s : Mr.Ramchandra Sahni, APP
For the Informant : Mr. Bashishtha Narayan Mishra, Advocate
: Mr. Avinash Raj, Advocate

(In CRIMINAL MISCELLANEOUS No. 62829 of 2022)

For the Petitioner/s : Mr.Harish Kumar, Advocate
For the Opposite Party/s : Mr.Surendra Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 65631 of 2022)

For the Petitioner/s : Mr.Harish Kumar, Advocate
For the Opposite Party/s : Mr.Ramchandra Sahni, APP

(In CRIMINAL MISCELLANEOUS No. 65853 of 2022)

For the Petitioner/s : Mr.Anjani Parashar, Advocate
For the Opposite Party/s : Mrs.Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV ORDER

5 13-04-2023 Heard learned counsel for the petitioners, learned
counsel for the informant and the learned A.P.P. for the State in
these applications.

The petitioners seek bail, who are in custody since
26.05.2022 in connection with Baniyapur P.S. Case No. 257 of
2022, F.I.R. dated 25.05.2022 registered for the offence



punishable under Sections 147,148,149,302,307 of the Indian Penal Code and 27 of the Arms Act.

The prosecution case, in short, is that on 25.05.2022 the informant alleged that he alongwith his family members started cleaning their land, all FIR named accused persons armed with weapons came there and started abusing, in the meantime, petitioner Najbuddin Miya @ Najbuddin @ Nazmuddin ordered his sons to kill on which petitioner-Ashraf Ali @ Ashraf Miya armed with his Gun, petitioner-Azad Ali armed with his 'Katta' and co-accused Asif Ali armed with his pistol started making indiscriminate firing which hit Yaqub Ali, Noor Alam, Aftab Alam, Majid Miya and others were also injured. Injured Yaqub Ali, Noor Alam, Aftab Alam, Majid Miya were taken to Referral Hospital, Baniyapur, where Doctor referred Yaqub Ali and Noor Alam to Sadar Hospital, Chapra where Yaqub Ali was declared dead. Noor Alam was referred to P.M.C.H. for better treatment.

Learned counsel appearing for petitioner-Azad Ali submits that he has clean antecedent and petitioner-Ashraf Ali @ Ashraf Miya carries one more case other than the present one and they have falsely been implicated in the present case due to land dispute.



Learned counsel for the informant and learned APP for the State have vehemently opposed the prayer for bail of the petitioners and submits that the allegation against petitioner-Ashraf Ali @ Ashraf Miya and petitioner-Azad Ali is that they started indiscriminate firing with their 'Katta' and 'Pistol' which hit Yaqub Ali and Noor Alam, as a result, they injured. Injured Yaqub Ali and Noor Alam were taken to Referral Hospital, Baniyapur, where Doctor referred Yaqub Ali and Noor Alam to Sadar Hospital, Chapra where Yaqub Ali was declared dead. Noor Alam was referred to P.M.C.H. for better treatment. Hence, petitioner-Ashraf Ali @ Ashraf Miya and petitioner-Azad Ali does not deserve to enlarge on bail.

Considering the nature of allegation against petitioner-Ashraf Ali @ Ashraf Miya and petitioner-Azad Ali, I am not inclined to enlarge them on bail in connection with Baniyapur P.S. Case No. 257 of 2022 pending in the court of learned C.J.M., Saran at Chapra (petitioner-Ashraf Ali @ Ashraf Miya) and pending in the court of learned Addl. District and Sessions Judge-9th, Saran at Chapra (petitioner-Azad Ali).

Prayer is refused.

So far as rest other petitioners, namely, Rijwan Ali, Tajir Ali, Nasil Ali, Mohammad Maniruddin Miya, Md. Javed,



Kaif Alam, Jahid Ali, Najbuddin Miya @ Najbuddin @ Nazmuddin, Aashiq Miya, Altaf Ali @ Iltaf Ali and Bhola Miya are concerned, learned counsel for the petitioners submits that the petitioners are innocent and they have falsely been implicated in the present case due to land dispute. Further submits that there is admitted land dispute between the parties. Further submits that as per FIR, except petitioner-Ashraf Ali @ Ashraf Miya and petitioner-Azad Ali, no other petitioners have made any firing rather they are alleged to have abused and pelted bricks and stones and they have not caused any injury to anyone and only being the family members of petitioner Najbuddin Miya @ Najbuddin @ Nazmuddin, who is order-giver, they have falsely been implicated in the present case. Further submits that there is case and counter case between the parties. Further submits that except petitioner-Ashraf Ali @ Ashraf Miya and petitioner-Azad Ali, other petitioners have no concern at all with the alleged recovery of the Arms. Further submits that petitioners namely, Md. Javed, Kaif Alam, Jahid Ali, Altaf Ali @ Iltaf Ali, Bhola Miya have clean antecedent.

Learned counsel for the informant and learned APP for the State have vehemently opposed the prayer for bail of the petitioners but fairly submits that the allegation of firing is



against petitioner-Ashraf Ali @ Ashraf Miya and petitioner-Azad Ali. There is no specific allegation of any assault, overt-act or firing against rest of the petitioners rather there is general and omnibus allegation against them. Further submits that petitioner Rijwan Ali, Tajir Ali, Nasil Ali, Mohammad Maniruddin Miya, Najbuddin Miya @ Najbuddin @ Nazmuddin and Aashiq Miya carry one more case other than the present one.

Considering the facts and circumstances of the case, let petitioners, namely, Rijwan Ali, Tajir Ali, Nasil Ali, Mohammad Maniruddin Miya, Md. Javed, Kaif Alam, Jahid Ali, Najbuddin Miya @ Najbuddin @ Nazmuddin, Aashiq Miya, Altaf Ali @ Iltaf Ali and Bhola Miya, be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Saran at Chapra and to the satisfaction of learned Addl. District and Sessions Judge-9th, Saran at Chapra (petitioner-Bhola Miya) in connection with Baniyapur P.S. Case No. 257 of 2022 with the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and



on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

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

And, further condition that 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 antecedents, the court below shall take step for cancellation 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.

(Rajesh Kumar Verma, J)

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