

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70554 of 2023

Arising Out of PS. Case No.-563 Year-2022 Thana- BAHADURPUR District- Darbhanga

1. KALAMUDDIN SAH @ KALIMUDDIN SAH SON OF LATE MD. SIRAJ SAH RESIDENT OF VILLAGE - BAJITPUR, P.S. - MANIGACHHI, DISTRICT - DARBHANGA
2. SHER ALI SAH SON OF YUSUF SAH RESIDENT OF VILLAGE - KOTHIYA, P.S. - SAKRI, DISTRICT - MADHUBANI
3. MD. EKBAL SAH @ AKBAL SAH SON OF LATE MAJID SAH RESIDENT OF VILLAGE - BIRSAI, P.S. - SAKRI, DISTRICT - MADHUBANI
4. MD. AFROZ SAH SON OF MAKBOOL SAH RESIDENT OF VILLAGE - MAKRAMPUR, P.S. - SAKRI, DISTRICT - MADHUBANI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate.

For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-11-2023 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

2. The petitioners seeks bail, who are in custody since 7.11.2022 in connection with Sessions Trial No. 276 of 2023 arising out of Bahadurpur P.S. Case No. 563 of 2022 dated 6.11.2022 registered for the offence under Sections 399, 402, 412 of the Indian Penal Code, Sections 25(1-B)A, 26 and 35 of the Arms Act.

3. Recovery is of Rs.1,00,000.- cash from the possession of petitioner no. 1, two *Gulel* from the possession of



petitioner no. 2 and *Shawal*, Pliers and slide-wrench were recovered from possession of petitioner no. 4.

4. Earlier the petitioners were granted bail vide order dated 6.7.2023 passed in Cr. Misc. 20310 of 2023 with the condition that the learned court below shall verify the criminal antecedents of the petitioners and in case at any stage, it is found that the petitioners have concealed the criminal antecedents, the court below shall take steps for cancellation of bail bond of the petitioners. In pursuance to the aforesaid condition, the bail bond of the petitioners were not accepted by the learned court below. Thereafter, the petitioners have again moved before this Hon'ble Court for modification of the order passed in Cr. Misc. 53343 of 2023 which was dismissed vide order dated 16.8.2023.

5. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. From perusal of the First Information Report and seizure list, it appears that no incriminating articles have been recovered from possession of the petitioners. Only Rs.1,00,000/- cash from petitioner No. 1 and two *Gulel* from petitioner No. 2 whereas one *Shawal*, Plier and slide wrench were recovered from petitioner No. 4. There is no recovery from petitioner No.



3. He further submits that merely on the basis of suspicion, the petitioners have been apprehended by the Police and there is violation of Section 100 of the Cr. P.C. He next submits that similarly situated co-accused persons have been granted bail by a co-ordinate Bench of the Court in Cr. Misc. 12210 of 2023 and 14085 of 2023. The Police after investigation, submitted charge sheet. The petitioners are in custody since 7.11.2022.

6. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail and submits that the petitioners carry seven more cases other than the present one but fairly submits in paragraph-3 of the bail petition that the petitioners are on bail in all the seven cases.

6. Considering the aforesaid fact and the period of custody, let the petitioners, above named, 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 learned 13th Additional Sessions Judge, Muzaffarpur, in connection with Sessions Trial No.276 of 2023 arising out of Bahadurpur P.S. Case No. 563 of 2022 with the following conditions:-

(i) 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 bond shall be cancelled by the Court below.

(ii) 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.

(iii) 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 antecedent, 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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