

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38406 of 2014

Arising Out of PS.Case No. -66 Year- 2013 Thana -BHAIRABASHTHAN District- MADHUBANI

- =====
1. Sugam Devi, Daughter of Ramdeo Mahto,
 2. Shanti Devi, Wife of Ramdeo Mahto,
 3. Santosh Mahto,
 4. Raman Mahto @ Ramanji,

Both sons of Ramdeo Mahto All residents of Village - Hithi Bali, P.S. –
Bhaisab Asthan, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Baleshwar Kamat, Advocate.

For the Opposite Party/s : Mr. Damodar Tiwari(APP)

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
ORAL ORDER

2 16-04-2015

This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioners, namely, Sugam Devi, Shanti Devi, Santosh Mahto and Raman Mahto @ Ramanji, in connection with Bhairav Asthan Police Station Case No. 66 of 2013 under Sections 341/323/307/504/354/34 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 23.08.2014, passed, in A.B.P. No.40 of 2013, by the learned Sessions Judge, Madhubani, dismissing the said application for pre-arrest bail.

Heard Mr. Baleshwar Kamat, learned counsel for the petitioners, and Mr. Damodar Tiwary, learned Additional

Public Prosecutor, appearing on behalf of the State.

In view of the fact that perusal of the materials on record does not reveal any such incriminating materials against the petitioners, namely, Sugam Devi and Shanti Devi, who are female members, which would warrant their custodial detention and interrogation, this Court is of the view that the petitioners have been able to make out a case calling for appropriate direction for pre-arrest bail.

Considering, therefore, the matter in its entirety and in the interest of justice, it is hereby directed that the petitioner above-named shall, in the event of their arrest in connection with the case aforementioned, be released on bail of Rs. 10,000/-, with two sureties of the like amount each, subject to the satisfaction of the Officer-in-Charge, Bhairav Asthan Police Station, Madhubani. This direction for bail is further subject to the condition that the petitioners above-named shall, within two weeks from today, appear before the Officer-in-Charge, Bhairav Asthan Police Station, and make themselves available for interrogation by police at all reasonable time and shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him or her from disclosing such facts to the

Court or to any police officer.

As far as petitioners, namely, Santosh Mahto and Raman Mahto @ Ramanji, are concerned, the High Court, while exercising its powers under Section 438 Cr.P.C., stands on the same footing as does a Sessions Judge inasmuch as a High Court and Sessions Judge have coordinate jurisdiction, while exercising power under Section 438 Cr.P.C.

Considering the nature of incriminating materials available against the petitioners, this Court does not find that the petitioners have been able to make out any case calling for giving them benefit of pre-arrest bail.

It is, now, submitted by learned counsel for the petitioners that there are already warrants of arrest issued against the petitioners and the petitioners are ready to surrender in the Court of competent jurisdiction.

Considering the matter in its entirety and in the interest of justice, while declining to grant pre-arrest bail to the petitioners, namely, Santosh Mahto and Raman Mahto @ Ramanji, it is made clear that if the petitioners surrender in the Court of competent jurisdiction and if, upon their appearance in the Court of competent jurisdiction, the petitioners apply for regular bail, the learned Court below shall consider and dispose

of the same in accordance with law without any unreasonable delay.

With the above observations and directions, this application shall stand disposed of.

(I. A. Ansari, J.)

Mkr./-

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