

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41555 of 2014

Arising Out of PS.Case No. -85 Year- 2007 Thana -DAUDPUR District- SARAN

- =====
1. Rajendra Chaurasiya @ Rajendra Pd. Chaurasiya Son of Late
Ramchandra Chaurasiya
 2. Umarawati Devi Wife of Rajendra Chaurasiya @ Rajendra Pd.
Chaurasiya
Both resident of Village - Bareja, P.S. - Daudpur, District - Saran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

3. 27.04.2015 Heard learned counsel for the petitioners and
learned Special P.P. for the State.

The petitioners apprehend arrest in connection
with Daudpur P.S. Case No. 85 of 2007 dated 22.11.2007
instituted under Sections 341/323/324/307/379/34 of the
Indian Penal Code and 3 (1)(x) of The Scheduled Castes and
The Scheduled Tribes (Prevention of Atrocities) Act, 1989
(hereinafter referred to as the 'Act').

Learned counsel for the petitioners submits that
as per the complaint itself, there is no direct allegation against
petitioner no. 2 who is a lady. It is submitted that against
petitioner no. 2, the only allegation is that she had objected to
the informant putting straw on the wheat belonging to the



petitioners. As far as the allegation against petitioner no. 1 is concerned, it is submitted that the same is only vague of assault and abuse and false and fabricated since in past also there have been four cases filed against the petitioners under various Sections of the Indian Penal Code and the Act and the lower Court itself in one other case has granted anticipatory bail to the petitioner no. 1 observing the tendency of the complainant to falsely implicate the family of the petitioners. Learned counsel has also relied upon judgments of the Hon'ble Supreme Court in the case of Vilas Pandurang Pawar v. State of Maharashtra and Bachu Das v. State of Bihar reported in (2012) 8 SCC 795 and (2014) 3 SCC 471 respectively.

Learned Special P.P. opposes the prayer for anticipatory bail and submits that as far as petitioner no. 1 is concerned, there is an allegation of abuse and also assault on the complainant who is a lady and thus such allegation does make an offence under Section 3(1) of the Act. He submits that the decisions relied upon by the petitioners in both cases clearly stipulate that it is the duty of the Court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the Act has been prima facie made out and if there is specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail, which in the present case is clearly made out

as far as petitioner no. 1 is concerned.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioner no. 2 be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Saran at Chapra in Daudpur P.S. Case No. 85 of 2007, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

As far as petitioner no. 1 is concerned, this Court finds that the present application under Section 438 of the Code of Criminal Procedure, 1973 is not maintainable in view of the bar of Section 18 of the Act and is accordingly disposed off.

(Ahsanuddin Amanullah, J.)

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