

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9607 of 2015

Arising Out of Bhorey PS.Case No. -36 Year- 2014, Thana -BHORE
District- GOPALGANJ

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1. Sumitra Devi, Wife of Vinod Kamkar
2. Santara Devi, Wife of Mohan Kamkar
Both resident of village- Nayagaon Sisai, P.S.- Bhorey, District-
Gopalganj.

.... Petitioners

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Dikshit

For the Opposite Party/s : Mr. Sanjay Kr. Sharma (APP)

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

4 09-07-2015 This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioners, namely, Sumitra Devi and Santara Devi, in connection with Bhorey P.S.Case No. 36/2014 under Sections 341/323/307/504/34 of the Indian Penal Code.

Perused the above application, materials available in the case-diary and materials on record including a copy of the order, dated 22.01.2015, passed, in A.B.P. No. 1943 of 2014, by the learned Sessions Judge, Gopalganj, rejecting the said application for pre-arrest bail.

Heard Mr. Naresh Dikshit, learned counsel for the petitioners, and Mr. Sanjay Kumar Sharma, learned APP,

appearing for the State.

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.

Because of the nature of incriminating materials available against the petitioners, this Court is of the view that in the facts and attending circumstances of the present case, the petitioners have not been able to make out any case calling for giving them benefit of pre-arrest bail.

While declining to give benefit of pre-arrest bail of the petitioners, it is made clear that if the petitioners surrender and file a petition for regular bail before the learned Court below, the learned Court below may consider the prayer and dispose of the bail application in accordance with law, at the earliest, bearing in mind the fact that the petitioners are women if they are not likely to influence the investigation of the case.

In view of the above and in the interest of justice, the prayer for pre-arrest bail is hereby rejected.

(I. A. Ansari, J)

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