

Arising Out of PS.Case No. -28 Year- 2015 Thana -DANAPUR District- PATNA

Versus

.... Opposite Party/s

For the Petitioner/s : Mr. Dayan Shanker Prasad
For the Opposite Party/s : Mr. Sadanand Paswan(Spl.App)

The contention on behalf of the petitioners is that much

prior to institution of the present case, petitioner no. 7 lodged Danapur P.S.Case No.01 of 2015 against the informant of the present case and several others and apart from this a dispute arose when local administration forcibly installed an idol of “Lord Hanuman” in front of Gas godown of petitioner no. 7 at the time of beautification of the road from which, several litigations started and as a matter of fact, the present case is also continuation of the aforesaid litigations.

Learned counsel appearing for the informant submits that there is specific allegation against these petitioners that they humiliated the informant calling his caste name in full public view and, therefore, in view of section 18 of the SC/ST Prevention of Atrocities Act, this anticipatory bail petitioner is not maintainable.

No doubt, section 18 of SC/ST Prevention of Atrocities Act prohibits to entertain a petition filed under section 438 of the Criminal Procedure Code but now it has already been settled in several decisions that if a case under provisions of SC/ST Prevention of Atrocities Act is instituted with ulterior and malafide intention, the Court has got jurisdiction to entertain a petition filed under section 438 of the Cr.P.C even if the case has been registered under the provisions of SC/ST Prevention of Atrocities Act.

Now I advert to the facts of the present case. According to the prosecution case itself, the occurrence took place due to none payment of dues amount and not because of caste of the informant. Moreover, Annexure-2 and other documents available on the record show that prior to institution of the present case, there was series of litigations between the parties and in view of the aforesaid circumstance as well as submission of the parties I am of the opinion that this anticipatory bail petition is maintainable.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioners, in the event of their arrest/surrender within four weeks from the date of receipt/production of copy of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Additional Chief Judicial Magistrate, Danapur Danapur Po Police Station Case No. 28 of 2015, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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