

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49802 of 2015

Arising Out of PS.Case No. -8 Year- 2015 Thana -SC/ST District- JEHANABAD

1. Mohamad Ashik Miyan @ Md. Ashik Mian @ Md. Ashique son of Abdul Bahav, resident of Village Amsara, P.S. Makdumpur, District Jahanabad

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.49810 of 2015

Arising Out of PS.Case No. -8 Year- 2015 Thana -SC/ST District- JEHANABAD

1. Md. Kaisar Mian @ Md. Kaisar @ Mohamad Kaishar Miyan son of Md. Anamul Haque, resident of Village- Jadopur, P.S. Belaganj, District- Gaya.
2. Hasira Khatoon wife of Md. Asique Mian, resident of Village- Amsara, P.S. Makhdumpur, District- Jahanabad

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.49802 of 2015)

For the Petitioner/s : Mr. Durgesh Nandan, Adv
For the Opposite Party/s : Mr. Sadanand Paswan (SPL. PP)
For the Informant : Mr. Prashant Sinha, Adv

(In Cr.Misc. No.49810 of 2015)

For the Petitioner/s : Mr. Durgesh Nandan, Adv
For the Opposite Party/s : Mr. Ambika Bhagat(SPL.APP)
For the Informant : Mr. Prashant Sinha, Adv

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 05-11-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioners for the offences punishable under Sections-



341, 323, 504, 406, 420, 120(B) of the Indian penal Code, Section-3(1) (x) of the SC/ST (P.O.A) Act, this Court on finding that the allegations can surface as with regard to the informant being robbed off Rs. 12 lacs given by him to one Tamanna Praveen and the receipt thereof allegedly bearing signature and/or thumb impression of Tamanna Praveen and Ashik Mian, this Court would find petitioners Md. Kaisar Mian (husband of Tamanna Praveen) and Hasira Khatoon, mother of Tamanna Praveen and wife of co-accused Md. Ashik Mian in absence of any specific allegation against them to be entitled for the privilege of anticipatory bail.

As a matter of fact, before coming to the conclusion this Court has also taken note of the submission of learned counsel for the Informant that there was also an allegation Under Section Section-3(1)(x) of the SC/ST (P.O.A) Act, but then the informant himself in the First Information Report has narrated the entire incident to have taken place in the house of Tamanna Praveen and thus not in public

view, this Court is prima facie of the view that it would be very difficult for the prosecution to prove the allegation of SC/ST (P.O.A) Act, against the two petitioners.

The Case of Md. Ashik Mian is of course distinguishable because if he along with his daughter Tamanna Praveen, had given receipt for money to the tune of Rs. 12 lacs and yet neither the land has been transferred by executing the registered sale deed nor even the money has been refunded to informant, the offence alleged in the FIR can be said to be at least prima facie made out against both Tamanna Praveen and petitioner Ashik Mian.

In that view of the matter, this Court is not inclined to grant the privilege of anticipatory bail to petitioner Md. Ashik Mian (Criminal Miscellaneous No. 49802 of 2015) and his prayer for anticipatory bail is hereby rejected.

That being so, if the **petitioner no.1, Md. Kaisar Mian and petitioner no. 2, Hasira Khatoon (Criminal Miscellaneous No. 49810 of 2015)**, would surrender within a period of four weeks from today, they would 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 **A.C.J.M. Jahanabad** in connection with **Jahanabad SC/ST, P.S. Case No. 08 of 2015**, subject to the conditions laid down under Section-438 (2) Cr. P.C and also subject to the following conditions:-

(i) That both the bailors will be close relative of the petitioners who will give an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the bailors shall also state on affidavit that they will inform the Court concerned if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of their bail

on the ground of misuse.

(iii) That the petitioners will give an undertaking that they will receive the police papers on the given date and be present on the date fixed for charge and if they fail to do so on two given dates and delays the trial in any manner, their bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioners will be well represented on each and every date of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

Ranjan/-
U ☐ T ☐