

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23168 of 2016

Arising Out of PS.Case No. -6 Year- 2016 Thana -KUNDWACHAINPUR District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Ramjit Mahto son of Late Sheoraj Mahto
 2. Umesh Mahto son of Ramjit Mahto
 3. Manoj Mahto son of Ramjit Mahto
 4. Ramnarain Mahto son of Late Jagarnath Mahto
 5. Raghubir Mahto, son of Late Janak Mahto
 6. Kintu Mahto, son of Raghubir Mahto
 7. Baleshwar Mahto, Son of Raghubir Mahto
 8. Santosh Mahto Son of Raghubir Mahto @ Bhola Mahto
 9. Nanhak Mahto son of Raghubir Mahto @ Bhola Mahto
 10. Chukilal Mahto @ Chukitlal Mahto son of Bhola Mahto @ Raghubir Mahto
 11. Shamlal Mahto Son of Jhigur Mahto
 12. Lakhindra Mahto Son of Shamlal Mahto
- All residents of village- Barwa Khurd, P.S.- Kundwa Chainpur, District-
East Champaran

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioners : Mr. Abhishek Kumar, Advocate
For the State : Mr. Ram Shankar Das (Spl.PP)
For the Informant : Mr. Sunil Kumar No.3, Advocate

=====

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 10-08-2016 Heard learned counsel for the petitioners, learned
counsel for the informant and learned Spl. P.P for the State.

Petitioners apprehend arrest in connection with
Kundwachainpur P.S. Case No. 06 of 2016 for offences alleged
under Sections 147, 148, 323, 354B, 379, 504 and 506 of the
Indian Penal Code, 1860 and Section 3(i)(X) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act.



The prosecution case is that on 23.01.2016 at about 12.30 P.M. accused Ramjit mahto along with 11 other accused persons including 50-60 unknown persons came near Jalkar armed with deadly weapon and abused the informant calling her caste name, though the informant facilitated to sell fishes from the businessman who came and handed over Rs. 42,000/- to the informant. When the informant protested then accused persons assaulted her after catching her hair and also dragged her. Accused persons also snatched Rs. 42,000/- and golden ear ring from the informant. They also threatened to kill her and committed rape. On hulla the villagers came there and then accused persons fled away.

It has been submitted by the learned counsel for the petitioners that they are innocent and have been falsely implicated in the aforesaid case. It is further submitted that the petitioners who have been named in the FIR along with other 50-60 persons had assaulted the informant and abused by calling her caste name and also snatched money from the informant. It has further been submitted that there is a case bearing Jalkar Civil Dispute No. 58 of 2015 pending between the parties and because of this civil dispute, the petitioners have been falsely made accused. He further submits that the allegation under SC/ST Act is general and omnibus against more than 70 persons and the provisions of

Sections 379 and 354B of the I.P.C. are not applicable in the case.

Learned counsel appearing for the informant submits that many of the witnesses have stated that the informant was abused by petitioner nos.1 to 3 in caste name and beaten. Hence, opposes the prayer for bail.

Learned Spl. P.P appearing for the States submits that in view of the latest amendment in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the Act), an appeal can lie against the order of the Special court granting or refusing bail in view of provision of Section 14A. But it has been submitted by the counsel for the petitioners that a Co-ordinate Bench of this Court while deciding a similar issue in Cr. Misc. No. 24836 of 2016 and analogous cases vide order dated 27.06.2016 has held that anticipatory bail application is maintainable as the word 'bail' occurring in Section 14A (2) of the Act connotes post-arrest/surrender bail and not pre-arrest bail. Learned Spl. PP for the State further submits that the petitioners are named in the FIR and there is specific allegation against these petitioners, hence, opposes the prayer for bail.

Be that as it may, since the allegations are general and omnibus and it relates to mob attack and abuse by mob, let the petitioners above named, in the event of their arrest or surrender

before the court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sikrahana at Dhaka, East Champaran, in connection with Kundwachainpur P.S. Case No. 6 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Nilu Agrawal, J.)

ravi/-

U		T	
---	--	---	--