

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12795 of 2016

Arising Out of PS.Case No. -551 Year- 2015 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

=====

1. Manoj Mahto @ Manoj Kumar S/o Late Ishwar Mahato, Resident of
Village- Chhoti Balia, P.S.- Balia, District- Begusarai.
2. Deepak Singh @ Deepak Kumar S/o Late Aniruddh Singh, Resident of
Village- Sadanandpur, P.S.- Balia, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Radha Devi, W/o Ashok Rawat, Resident of Village- Nurjamapur, P.S.
Baliam, District- Begusarai.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Binod Kumar

For the Opposite Party/s : Mr. M. Dayal (App)

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 26-04-2016 Heard the Counsel for the petitioners and Mr. M.

Dayal, APP for the State. A supplementary affidavit is being filed
on behalf of the petitioners which is taken on record.

Petitioners herein are cited accuseds of Complaint
Case No. 551C/2015 registered under Section 323 of the Indian
Penal Code read with Section 3(i)(x) of the SC/ST (Prevention of
Atrocities) Act (for short 'the Act').

According to the complainant, while she was at the
field engaged in agriculture operation, the petitioners came and
started abusing the complainant in the name of her caste. When
protest was made, it is alleged that she was thrashed.

Contention of the petitioners is that the land belonged

to the petitioner as the purcha issued in favour of the complainant under the Bihar Land Ceiling Act was stayed by the Circle Officer under orders of this Court. There is general and omnibus allegation against the petitioners about abusing them in the name of caste. No prima facie case under SC/ST Act is made out. It is submitted that the Court can examine these aspects in anticipatory bail matter.

Mr. Dayal, learned APP, on the other hand, submits that although the allegation are trivial in nature but there is allegation(s) constituting offence under the Act. Section 18 of the Act disables the Court to grant anticipatory bail.

The petitioner has relied on **2010 (2) P.L.J.R. 690** in order to submit that whether a case is made out or not can be gone into or looked while considering anticipatory bail application. On going through the judgment, this Court finds that in the said case, there was absolutely no allegation constituting the offence and, as such, the Court found that prima facie the case under the Act was not made out.

In the case at hand, on going through the complaint, it is found that the allegations constituting the offence under the Act have been alleged specifically against the petitioners. Any observation about non-making out a prima facie case may

prejudice the case of the parties at the Trial. The Court, therefore, desists from observing anything on the applicability or otherwise of the Penal provisions of the Act. There is no denial, however, that the allegations are trivial in nature and that parties are locked in land dispute.

In my view, the petitioners should surrender and seek regular bail placing all facts for consideration before the learned Court below.

The application is disposed of.

(Kishore Kumar Mandal, J)

Pankaj/-

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