

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Miscellaneous No.12321 of 2016**

Arising Out of PS.Case No. -178 Year- 2015 Thana -DAUDPUR District- SARAN

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1. Banaras Rai son of late Nayak Rai,
 2. Parmeshwar Rai
 3. Kameshwar Rai
 4. Sita Ram Rai, all sons of Banaras Rai, residents of Village-Mairwa.
PS.Daudpur, Distt-Saran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Singh -Advocate

For the Opposite Party/s : Mr. Nityanand Tiwary(APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 28-03-2016

Heard learned counsel for the petitioner as well as
learned APP.

Petitioners are apprehensive regarding their arrest relating to Daudpur PS Case No. 178/2015 registered under Sections 341,323,324,504,34 of the IPC and under Section 3(i)(x) of the SC/ST Act, carrying an allegation that on 01.12.2015 at about 5:00 P.M. while the informant, Hari Kishun Ram was irrigating potato field, all the petitioners armed variously came, forbade him and further assaulted. They had also abused by calling his caste name.

Contentions of the petitioners are that the instant case has purposely been filed on account of institution of Daudpur PS Case No. 179/2015 at the end of petitioner, Banaras Rai against

the prosecution party whereunder he was assaulted, earlier to the institution of the present case. It has also been submitted that no offence under SC/ST Act is made out because of the fact that the alleged place neither happens to be a public place nor within the public gaze. Apart from this, it has also been submitted that not even a single witness has been cited therein attracting allegation under SC/ST Act. Therefore, excluding presence of SC/ST Act, other Sections are bailable one.

Learned APP opposed the prayer.

For the present, it does not look wise to give any kind of interpretation regarding applicability/non applicability of SC/ST Act. However, in the facts and circumstances of the case, in consonance with allegation/counter allegation, petitioners have got good case to defend their right and in the aforesaid background, petitioners are directed to surrender before the learned lower court with a prayer for bail which, the learned lower court will consider in view of observations made above.

In light of aforesaid observations, the instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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