

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 34599 of 2016

Arising Out of PS.Case No. -51 Year- 2014 Thana -SC/ST PS District-
EASTCHAMPARAN(MOTIHARI)

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1. Ravindra Pandey Son of Jokhu Pandey
2. Binod Pandey Son of Jokhu Pandey
Both resident of Village- Sewrahan, P.S.- Harsidhi, District-
East Champaran.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Uma Kant Shukla
Mr. Shakti Suman Kumar
For the Opposite Party/s : Mr. Binay Krishna, Spl.P.P.
Mr. Ajay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 08-09-2016 Heard Sri Uma Kant Shukla, learned counsel,
who was assisted by Sri Shakti Suman Kumar, learned
counsel for petitioners, Sri Binay Krishna, learned Special
Public Prosecutor for SC/ST Act as well as Sri Ajay Kumar
Singh, learned counsel, who has voluntarily appeared on
behalf of informant.

Two petitioners, apprehending their arrest in
SC/ST (Motihari) P.S. Case No. 51 of 2014 registered for
the offence under Sections 341, 323, 447, 504/34 of the
Indian Penal Code and Section 3(i)(x) of the Scheduled
Castes and the Scheduled Tribes (Prevention of Atrocities)

Act, 1989 (in short "SC/ST Act"), have prayed for grant of bail in the event of their arrest or surrender.

By way of referring to F.I.R., learned counsel for petitioners submits that save and except the provision of alleged violation of Section 3(i)(x) of SC/ST Act, all other offences are bailable. Regarding application of Section 3(i)(x) of the SC/ST Act, by way of referring to **Annexure - 2** to the present petition i.e. photocopy of Pucha issued in favour of father-in-law of the informant, learned counsel for petitioners submits that informant belongs to *Kamkar* caste, which according to Government Notification falls under the category of Extremely Backward Class. According to learned counsel for petitioners, since the informant is not a member of SC/ST, the lodging of F.I.R. on allegation of abusing the informant with her caste name is primarily appears to be false. He further submits that in respect of land in question, regarding which, the informant is claiming that Pucha was issued in favour of her father-in-law, it has been argued that a civil suit in between the parties is already going on.

Learned Special Public Prosecutor as well as Sri Ajay Kumar Singh, learned counsel for the informant have vehemently opposed the prayer for anticipatory bail,



primarily on the ground that since in the F.I.R. offence alleged under the provisions of SC/ST Act, in view of Section 18 of the SC/ST Act, the anticipatory bail petition may not be entertained. Sri Singh, learned counsel for the informant submits that in this case, after investigation, police had submitted chargesheet and order of cognizance has also been passed. Accordingly, a prayer has been made to reject the present petition, as not maintainable.

Besides hearing, I have also perused the material available on record. Normally, if there is a case of commission of offence under the provision of SC/ST Act, under Section 18 of the SC/ST Act, anticipatory bail petition may not be entertained. It is further evident that after submission of chargesheet and order of cognizance, anticipatory bail petition may not be entertained. However, keeping in view the fact that a specific stand has been taken by the petitioners that the informant was not a member of SC/ST, as per Government notification contained in Memo no. 1099 dated 25-07-2012, the Court is of the opinion that at this stage, *prima facie*, for the purpose of entertaining anticipatory bail, without recording any specific opinion, the Court may extend the privilege of anticipatory bail.



In the F.I.R. itself, the informant had claimed that Purcha was issued in favour of her father-in-law. On perusal of Annexure – 2 i.e. Purcha, it is evident that he was indicated as *Kamkar* caste. The *Kamkar* caste in (Schedule – 1) of Govt. Notification dated 25-07-2012, which has been brought on record in the present case, at serial no. 30 indicates a member belonging to Extremely Backward Class and as such, even though F.I.R. has been lodged under purported sections of SC/ST Act as well as the fact that order of cognizance has already been passed, the Court is satisfied that it is a fit case for extending the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the petitioners namely Ravindra Pandey and Binod Pandey be enlarged 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 Shri D.C. Pandey, J.M. 1st Class, Motihari in connection with Tr. No. 1409 of 2016, arising out of S.C.S.T. (Motihari) P.S. Case No. 51 of 2014, subject to condition as laid down under Section 438(2) of the Cr.P.C.

It is made clear that whatever opinion has been

recorded by this Court, that was recorded only for the purposes of grant of anticipatory bail. This observation may not be taken note of in any subsequent proceeding.

(Rakesh Kumar, J.)

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