

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43212 of 2016

Arising Out of PS.Case No. -289 Year- 2015 Thana -CHANPATIA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Bablu Ram S/o Bipat Ram
 2. Sima Devi W/o Jhotil Ram
 3. Jagrani Devi W/o Shiv Mangal Ram
 4. Chankali Devi W/o Bipat Ram

All are resident of Village- Mushari Bana, P.S.- Chanpatiya
(Sirsiya O.P.), District- West Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s :Mr. Vishwajeet Kumar Mishra, Advocate
Mr. Sanjay Kumar Pandey, Advocate
Mr. Anjani Parashar, Advocate

For the Opposite Party/s : Mrs. Indu Kumari Srivastava, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 06-10-2016

Heard the parties.

The petitioners, 4 in number, apprehend their arrest in a criminal prosecution registered under Sections 307, 324, 325, 379 and some other allied offences under the Indian Penal Code.

According to the prosecution case, the informant was assaulted by the accused persons on the suspicion that she was a witch (Daain) and when her son and grand son came to rescue her, then petitioner no.1 Bablu Ram assaulted them by iron rod causing injuries to them on their heads. Co-accused Jhotil Ram is also alleged to have assaulted by bhala to the grand son of the informant.

The learned counsel appearing on behalf of the petitioners submits that, even according to prosecution case, offence under Section 307 of the Indian Penal Code is not made out against these petitioners. He further submits that the injured

persons were examined by the doctor and the injuries sustained by them were opined to be simple in nature. He next submitted that so far petitioner nos. 2 to 4 are concerned, they all are ladies and there is no specific allegation of assault against them.

The learned Addl.P.P. appearing on behalf of the State though has opposed the prayer, but has not been able to dispute the aforesaid submissions made on behalf of the petitioners.

After having heard the parties and taking into consideration the nature of allegation, as disclosed in the First Information report, and further taking into consideration the fact that so far the petitioner nos. 2 to 4 are concerned, the allegations against them are general and omnibus in nature, and they are ladies, this Court is inclined to accede to the prayer made on their behalf for grant of anticipatory bail.

In the event of arrest or surrender in the court below within a period of four weeks from today, let the petitioner nos. 2 to 4 namely, Sima Devi, Jagrani Devi and Chankali Devi, be released on bail on furnishing bail bonds of Rs.25,000/-(Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Chanpatiya (Sirisiya O.P.) P.S.Case No. 289 of 2015, subject to the conditions laid down under Section 438 (2) of the Cr.P.C. and subject to the further conditions that :

- (A) one of the bailors of each petitioners must be a government servant or close family member of the petitioners, who will file an affidavit in the court below showing their relationship with the petitioners,
- (B) if the petitioners are found involved in same and similar nature of cases in future, then in that case, the informant/prosecution shall be at liberty

to file a petition for cancellation of bail bonds of the petitioners, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned, and (C) the petitioners shall make regular pairvi in the court below in the present case either by appearing themselves in person or through representation by their lawyer on each and every dates, and if on two consecutive dates petitioners fail to make pairvi, then the court below shall be at liberty to cancel the bail bonds of the petitioners.

But, so far the petitioner no.1 Bablu Ram is concerned, there is specific allegation of assault against him by using iron rod and in that view of the matter, this Court is not inclined to accede to the prayer made on his behalf for grant of anticipatory bail. Accordingly, his prayer for anticipatory bail in connection with Chanpatiya (Sirisiya O.P.) P.S.Case No. 289 of 2015 is rejected.

However, if the petitioner No.1 Bablu Ram surrenders in the court below within a period of four weeks from today and applies for regular bail, then the same shall be considered on its own merits without being prejudiced by the rejection of his prayer for anticipatory bail.

(Birendra Prasad Verma, J)

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