

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40008 of 2016

Arising Out of PS.Case No. -71 Year- 2016 Thana -BIRPUR District- SUPAUL

1. Sahdeo Mandal Son of Deo Narain Mandal
2. Sushil Mandal@Sushil Kumar Mandal Son of Sahdeo Mandal
3. Babita Devi Wife of Sushil Mandal, all are resident of Birpur Ward No. 1, Mandal tola, Police Station- Birpur, District Supaul.

Versus

1. The State of Bihar

.. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun

For the Opposite Party/s : Smt. Veena Kumari Jaiswal, A.P.P.

CORAM: HON'BLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 22-10-2016

Heard both sides.

The petitioners apprehend arrest in a case registered for the offences punishable under sections 419, 420, 406, 379/34 of the Indian Penal Code.

The informant, who is the driver of the tractor, alleged that Sanoj Mandal called the informant with his tractor for carrying five generators from village Birpur for running a tent house. The informant and Sanoj Mandal came to Birpur in the house of Sushil Mandal son of Sahdeo Mandal. They stayed there in the night. In the morning Sanoj Mandal with the informant went to Birpur market and asked him to stay in a shop. Sanoj Mandal thereafter came at the house of his sister and then fled away along with the tractor. Sahdeo Mandal, Sanoj Mandal, Sushil Mandal and his wife i.e. sister of Sanoj Mandal was not present in

the house when the informant came at the house of Sahdeo Mandal.

Learned counsel for the petitioners submits that the petitioners are innocent and they have committed no offence. Sanoj Mandal came with the tractor along with the driver of the tractor i.e. the informant at the house of his sister and they stayed there in the night but in the morning Sanoj Mandal fled away with the tractor. Petitioner Sushil Mandal is brother-in-law of Sanoj Mandal and petitioner Babita Devi is the sister of Sanoj Mandal. Sahdeo Mandal is the father of Sushil Mandal. They have no manner of concern with the tractor or Sanoj Mandal. They allowed Sanoj Mandal only to stay in the house because he was brother-in-law of Sushil Mandal. Even during investigation it has come that Sanoj Mandal fled away with the tractor but from perusal of the statement of the informant, the driver of the tractor, and the statements of the witnesses made in paragraph 33 of the case diary, it appears that Sanoj Mandal at the request of the petitioners took the driver of the tractor to Birpur market and Sanoj Mandal asked the driver to sit in a shop and thereafter Sanoj Mandal had fled away with the tractor. Subsequently, the trailer of the tractor was recovered but the tractor has not been recovered.

Considering the fact that petitioners Sushil

Mandal and Sahdeo Mandal also helped Sanoj Mandal in committing theft of the tractor and they also fled away along with Sanoj Mandal, I am not inclined to grant them anticipatory bail. Accordingly, anticipatory bail petition of petitioner no. 1 Sahdeo mandal and petitioner no. 2 Sushil Mandal is rejected.

So far as the case of petitioner no. 3, Babita Devi is concerned, she is a lady and no specific allegation is made against her.

On the facts of the case, petitioner no. 3 Babita Devi, in the event of arrest or surrender in the court below within four weeks from the date of receipt/communication of a copy of this order, shall be enlarged on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Birpur (Supaul) in connection with Birpur P.S. Case no. 71 of 2016 subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure, 1973.

(Prabhat Kumar Jha, J)

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