

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26158 of 2016

Arising Out of PS.Case No. -15 Year- 2016 Thana -SITAMARHI COMPLAINT CASE District- SITAMARHI

1. MD. AHSAN.
2. MD. FARMAN.
3. MD. IRFAN, All sons of Late Abdul Zaleel, All residents of Village + Panchayat + PO- Gauri, PS- Nanpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. HENA KHATOON, D/o Md. Arman, R/o Village + Panchayat + PO- Gauri, PS-Nanpur, District- Sitamarhi.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Narayan, Advocate
Smt. Nirmala Kumari, Advocate
Mr. Jitendra Narayan, Advocate
For Complainant : Mr. Uday Kumar, Advocate
For the State : Mr. Mustaque Alam, A.P.P.

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 17-08-2016 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel appearing on behalf of the Opposite Party No. 2, who is the Complainant.

Petitioners apprehend their arrest in connection with Complaint Case No. 15/2016 registered for the offences punishable under Sections 323, 504, 354/34 of the Indian Penal Code and 3/4 of the Prevention of Witch Practices Act, 1999.

The prosecution case as made out in the complaint is that on the date of occurrence, all petitioners armed with hasua,



lathi, sword and plastic bottle arrived at Darwaja of the complainant and stated that she practiced witch craft on 7-8 years old son of Md. Irfan (Petitioner No. 3). It is also alleged that all the accused and petitioner Nos. 2 and 3 forcibly administered solution of night soil in the mouth of complainant and witness Multaj Bano, on account of which both of them started vomiting and after domestic and home treatment they were taken to private doctor for treatment at Raipur Bajar (Nanpur) but the case could not be registered for the aforesaid occurrence because there was no male member in the house. The complainant has enclosed Xerox copy of prescription of the doctor.

It is further alleged that on 11.01.2016, the complainant had gone to answer the call of nature with her mother Multaj Bano. Md. Ahsan (petitioner No. 1) alongwith two unknown persons armed with pistol surrounded Multaj Bano. Md. Ahsan (petitioner No. 1) gave threatening to kill the complainant by fire arm and attempted to commit illegal act after removing her clothes but in the meantime due to some insect bite on the leg of petitioner No. 1 he ran away. In the meantime mother of complainant raised hullah and witnesses arrived. It is also alleged that Md. Ahsan raised hullah then others (petitioner Nos. 2 and 3) arrived armed with weapons and assaulted the complainant and

her mother and torn their clothes. The complainant went to police station on 12.01.2016 for legal action but the police refused and thereafter, the complaint was filed.

It has been submitted by the learned counsel for the petitioners that petitioners are uncles of complainant and there is a land dispute between the parties, as is evident from Annexure-3 in which it is clearly stated that the complainant was warned by Gram Panchayat to mend her ways. It has further been submitted that the petitioners have clean antecedent as is evident from para-3 of this application.

However, learned counsel appearing on behalf of the complainant submits that the petitioners have been inimical terms and also threatened her two months back, hence opposes the prayer for bail.

Learned A.P.P. appearing for the State also submits that the petitioners are named in the complaint petition, hence, opposes the prayer for bail.

Be that as it may, since the complaint has been lodged on 12.01.2016, alleged occurrence is dated 13.10.2015 and no reason has been assigned for the delay, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of eight weeks from today, be

released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand only) each with two sureties of like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Sitamarhi in connection with Complaint Case No. 15/2016, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

It is made clear that petitioners will remain physically present before the police/ Court as and when required and their failure to appear before the learned Court below on two consecutive dates without assigning any reason will entail cancellation of their bail bonds without being prejudiced by this order.

(Nilu Agrawal, J)

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