

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 38126 of 2016

Arising Out of PS.Case No. -13 Year- 2016 Thana -SC/ST District- JEHANABAD

1. Gango Devi, Wife of Mahesh Goswami
2. Kaushal Goswami, son of Mahesh Goswami
Both resident of Village- Madarpur, P.S.- Kako, District- Jehanabad.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Yogendra Kumar Dwivedi

For the Opposite Party/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

2 14-09-2016

Heard Sri Yogendra Kumar Dwivedi, learned counsel
for petitioners and Sri Sadanand Paswan, learned Special Public
Prosecutor for SC/ST Act.

Two petitioners, who are mother and son
respectively, apprehending their arrest in Jehanabad SC/ST Case
No. 13 of 2016 registered for the offence under Sections 341, 323,
379, 504/34 of the Indian Penal Code and Section 3(i)(s) 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 arrest or surrender, primarily on the ground
that present F.I.R. was lodged maliciously.

Learned counsel for petitioners, by way of referring to
an F.I.R. i.e. Kako P.S. Case No. 80 of 2016, which was registered on



07-06-2016, submits that on the basis of information given by petitioner no. 1 against the relatives of the informant of the present case, the F.I.R. i.e. Kako P.S. Case No. 80 of 2016 was registered for offence under Sections 341, 323, 504, 506/34 of the Indian Penal Code and Sections 3 & 4 of the Prevention of Witch Craft Act, 1999. Immediately after lodging the F.I.R. by the petitioner no. 1, on the next date i.e. 08-06-2016, the present F.I.R. has been lodged with false allegation of commission of offences particularly under the provisions of SC/ST Act. He submits that the allegation of abuse with the caste name in the F.I.R. has been made only with a view to prevent the petitioners to get anticipatory bail in the garb of Section 18 of the SC/ST Act.

Learned Special Public Prosecutor has opposed the prayer for grant of anticipatory bail, however; he was not in a position to dispute that prior to lodging present F.I.R., petitioner no. 1 had lodged an F.I.R. and in the said F.I.R., the petitioner no. 1 had alleged that petitioner no. 1 was abused on the plea that by way of using witch craft, the petitioner no. 1 had killed the husband of the informant of the present case.

In view of facts and circumstances, even though allegation of Section 3 of the SC/ST Act has been made in the present F.I.R., the Court, at the moment, is of the opinion that such allegation was levelled to prevent the petitioners from obtaining

anticipatory bail.

Accordingly, I am of the opinion that it is a fit case for granting privilege of anticipatory bail.

Therefore, in the event of arrest or surrender within a period of six weeks from today, let both petitioners namely Gango Devi and Kaushal Goswami 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 Sri A.K.Shukla, learned Judicial Magistrate 1st Class, Jehanabad in connection with Jehanabad SC/ST P.S. Case No. 13 of 2016, subject to condition as laid down under Section 438(2) of the Cr.P.C.

It goes without saying that whatever observation has been given by this Court regarding fact of the case, was given only and only with a view to decide the present anticipatory bail petition. This observation may not be take note of by any court in subsequent proceeding.

(Rakesh Kumar, J.)

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