

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48214 of 2015

Arising Out of PS.Case No. -44 Year- 2015 Thana -MANSAHI District- KATIHAR

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1. Deepak Choudhary son of Brahmdeo Choudhary
2. Brahmdeo Choudhary son of Bangali Choudhary
3. Punam Devi wife of Brahmdeo Choudhary
All residents of village - Mansahi, Police Station - Mansahi,
District - Katihar. Petitioner/s

Versus

The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Sah, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 29-01-2016 Heard the learned counsel for the petitioners.
However, none appears on behalf of the State of Bihar, though the
name of the learned Spl.P.P. is printed in the daily cause list.

The petitioners apprehend their arrest in a criminal
prosecution registered under Sections 341, 323, 324 and 379/34 of
the Indian Penal Code as also under Section 3 (i) (s) (w) (ii) of
The Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (in short, "SC/ST Act").

The learned counsel appearing on behalf of the
petitioners submits that the petitioners and the informant are
neighbours and on account of some trifling dispute, the present
criminal case was lodged with exaggerated allegations, which are
completely unfounded. According to him, the prosecution of the
petitioners for offences under Sections 3 (i) (s) (w) (ii) of The
SC/ST Act are completely misconceived as provisions mentioned
in the first information report are not the Penal provisions in the
statute book and therefore, bar created under Section 18 of the
SC/ST Act shall not be attracted in the present case.

Submissions made by the learned counsel for the

petitioners seem to be correct. As noticed above, none is appearing on behalf of the State of Bihar to oppose the prayer for grant of anticipatory bail made on behalf of the petitioners.

In above view of the matter, let the petitioners namely, Deepak Choudhary, Brahmdeo Choudhary and Punam Devi, in the event of their arrest or surrender in the court below within a period of four weeks from today, be enlarged 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 Sri B.B.Rai, learned Judicial Magistrate, 1st Class, Katihar in connection with Mansahi P.S.Case No. 44 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 must be 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 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.

(Birendra Prasad Verma, J)

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