

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20619 of 2016

Arising Out of PS.Case No. -164 Year- 2015 Thana -GIRIYAK District- NALANDA
(BIHARSHARIFF)

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1. Raj Kumar Yadav
 2. Birendra Yadav

Both are Son of Kishori Yadav, resident of Village- Tikka Bigha, P.S.
Warisaliganj, District- Nawada.

3. Rajo Yadav son of Riyare Yadav, resident of village- Saluganj, P.S.
Muffasil, District Nawada.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate
For the Opposite Party/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 26-05-2016 Heard learned counsel for the petitioners and learned
Spl. PP for the State.

The petitioners seek pre-arrest bail in connection with
Giriyak P. S. Case No. 164 of 2015 registered under Sections 341,
323, 427 and 504/34 of the Indian Penal Code and 3(i)(ii) of
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, 1989.

It is contended by learned counsel for the petitioners that
apart of Section 3(i)(x) of Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, all other sections are bailable in

nature. It is further contended that since alleged occurrence took place at 3 am at brick kiln of the petitioners, the ingredients of the offence alleged under Section 3(i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act could not be attracted.

On the other hand, referring to the statement of the petitioners made in para- 12 of the present application, learned Spl. PP for the State has submitted that in view of the fact that the petitioners were granted police bail during investigation, the present application for grant of pre-arrest bail is not maintainable.

I find force in the submission made by the learned Spl. PP.

In view of the fact that the petitioners were on police bail, the instant application under Section 438 of the Code of Criminal Procedure is not maintainable and it is disposed of as not maintainable.

However, in case the petitioners surrender and seek bail, the same shall be considered on its own merit without being prejudiced in any manner by this order.

(Ashwani Kumar Singh, J.)

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