

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20871 of 2016

In
Criminal Miscellaneous No.13541 of 2016

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1. Santosh Kumar
2. Arvind Kumar,
Both sons of Sri Jagan Singh,
Both residents of village- Shankarpur Tole, Bheri Bigaha, P.S.- Indrapuri,
District- Rohtas

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Verma, Adv.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 11-05-2016

Cr.Misc.No.20871 of 2016

The present application has been filed on behalf of the petitioner for restoration of Cr.Misc.No.13541 of 2016, which stood dismissed for want of prosecution by an order dated 12.04.2016.

After hearing the parties and for the reasons disclosed in the present application, the prayer for restoration is allowed. Cr.Misc.No.13541 of 2016 is restored to its original file.

The present application stands finally disposed of with the observations and directions made above.

Cr.Misc.No.13541 of 2016

On the request of the parties, the present matter has been taken up for consideration on merits.

The petitioners apprehend their arrest in a criminal prosecution registered under Sections 436/34 and some other allied offences under the Indian Penal Code as also under Sections

3(1)(x) of The Scheduled Castes and the Scheduled Tribes (Prevention Of Atrocities) Act, 1989 (in short 'Act, 1989').

Learned counsel appearing on behalf of the petitioners submits that the FIR vide Annexure-1 lodged by the informant is a counter-blast of the criminal case lodged by the petitioner no.1 vide Annexure-2. It is also submitted that, on the face of it, the entire prosecution allegation appears to be false and concocted one and the present FIR has been lodged by way of retaliation. It is next contended that, on the face of it, the offence under Sections 3(1)(x) of the Act, 1989 is not made out. Therefore, petition under Section 438 Cr.P.C. shall be maintainable.

Learned Addl. P. P. appearing on behalf of the State, though has opposed the prayer for bail, but has not been able to dispute the aforesaid submissions.

Be that as it may, in the facts and circumstances of the present case, noticed above, this Court is inclined to accede to the prayer made on behalf of the petitioners for grant of anticipatory bail. Accordingly, their prayer for grant of anticipatory bail is allowed.

In the event of their arrest or surrender in the court below within a period of four weeks from today, let the above named petitioners be enlarged on bail on furnishing bail bond of Rs. 25,000/- each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Dehri, District-Rohtas (Sasaram) in connection with Dehri (Indrapuri) P.S.Case No.588 of 2015, subject to the condition as laid down under Section 438(2) of the Cr.P.C. and subject to further conditions that:

(A) One of the bailors must be government servant or close family members of the petitioners, who will file an affidavit in the court below showing his/her 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;

(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 date, and if on two consecutive dates petitioners fail to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioners.

(Birendra Prasad Verma, J)

Arvind/-

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