

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17471 of 2017

Arising Out of PS.Case No. -149 Year- 2014 Thana -BEUR District- PATNA

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1. Mukul Thathera @ Mukel Thathera,
2. Bhushan Thathera,
3. Suraj Thathera, Petitioner No. 1 to 3 Son of Badri Thathera,
4. Akhilesh Yadav,
5. Randhir Yadav, Petitioner No. 4 and 5 Son of Sakaldeo Yadav, null
6. Ranjan Yadav @ Ranjay Yadav, Son of Raj Nandan Yadav
7. Raj Nandan Yadav, Son of Bhola Yadav, All Resident of Mohalla +
Harish Chandra Nagar Sipara, P.S. Beur, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar

For the Opposite Party/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

4 17-05-2017 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor for the State.

Petitioners apprehend their arrest in connection with
Beur P.S. Case No. 149 of 2014 registered for the offences
punishable under Sections 341, 323, 504, 506 of the Indian Penal
Code and under section 3(i) (x)(xii)(xiv)(xv) SC/ST Prevention
of Atrocities Act and almost all the sections are bailable and
except section ST of prevention of Atrocities Act.

Although, the accused of the offence of SC/ST
Prevention of Atrocities Act does not have any right to seek



protection under section 438 of Criminal Procedure Code but before coming into force of amendment in SC/ST prevention of atrocities Act, the accused of the offence of the aforesaid act had right to seek protection under section 438 of the Cr.P.C, if the offence of SC/ST Act is not made out.

In the present case, the written report of the informant goes to show that there was land dispute between the parties and the Annexure-3 to the petition also confirms the land dispute of the parties. Moreover, there is allegation against the petitioners that they called the caste name of the informant but mere calling caste name does not appear to constitute an offence of SC/ST Prevention of Atrocities Act.

It is pertinent to note that earlier petitioners had filed Cr. Misc. No. 43743 of 2016 which was later on withdrawn with a liberty to file criminal appeal under new act but when the petitioner filed appeal before this Court a co-ordinate Bench of this Court vide order dated 3.03.17 converted the criminal appeal no. 1249 of 2015 in anticipatory bail petition (wrongly mentioned in that order as regular bail petition)

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioners, in the event of their



arrest/ surrender within four weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the 1st Additional Sessions Judge, Patna in Beur P.S. Case No. 149 of 2014 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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