

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.2110 of 2017

Arising Out of PS.Case No. -17 Year- 2016 Thana -DHURAIYA District- BANKA

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1. Rustam @ Md. Rustam, son of Md. Habib, null
2. Samima Khatoon, wife of Md. Rustam @ Rustam,
3. Rizwan, son of Md. Rustam, all are resident of Village- Bakhadda, P.S.- Dhuraiya, District- Banka.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Brij Nandad Prasad

For the Respondent/s : Mr. Binod Bihari Singh

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 24-07-2017 The appellants seek pre arrest bail in connection with Dhuraiya (Dhankund) P.S. Case No. 17 of 2016, registered for offences punishable under Sections 341, 354, 323, 504, 506 and 34 of the Indian Penal Code and section 3(x) (xiv) of SC/ST Act.

Allegation against the appellants that they abused the informant and his wife by taking their caste name and also assaulted them and others.

It has been submitted on behalf of the appellants that police after investigation has not found the case true under above mentioned Section of SC/ST Act, however, learned Magistrate differing with the opinion of the police, took cognizance against the appellants. It has also been submitted that appellants were earlier on police bail. Further there is case and counter case between the parties and dispute arose with respect to fetching



water from tubewell.

Learned Special P.P. opposed the prayer for bail and submitted that cognizance has been taken by the magistrate against all the appellants under the above mentioned sections of Indian Penal Code as well as SC/ST Act.

Having heard both sides, in view of the fact that a *prima facie* case under the above mentioned Section of SC/ST Act is made out against the appellants, as such, this appeal is not maintainable.

Let appellants surrender before the special court and make prayer for regular bail and if any such application is filed, the special court after considering the submissions of learned counsel for the appellant that in this case police after investigation has not found the case true, there is case and counter case between the parties and earlier the appellants were on police bail and further one of the appellants is a lady, shall pass an appropriate order, preferably on the same day, without being prejudiced by the order of this Court.

With the above observation, this appeal is disposed of.

(Vinod Kumar Sinha, J)

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