

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1995 of 2017

Arising Out of PS.Case No. -86 Year- 2015 Thana -CHIRAIYA District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Upendra Sharma @ Upendra Thakur
 2. Yogendra Sharma
 3. Mahendra Sharma @ Mahendra Thakur
All sons of Hari Bhajan Sharma
 4. Suman Sharma son of Upendra Sharma @ Upendra Thakur
All residents of village - Khartari, P.S. - Chiraiya, District – East
Champaran (Motihari).

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sharma

For the Opposite Party/s : Mr. Sri Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 08-03-2017

This matter is being taken up out of turn on the mentioning slip filed on behalf of the petitioners.

Heard learned counsels for the petitioners and the State.

The petitioners have renewed the prayer for anticipatory bail in a case registered for the offences punishable under Sections 147, 149, 341, 448, 323, 354, 504 of the Indian Penal Code and 3(1)(xi) of SC/ST (Prevention of Atrocities) Act.

The prosecution case is that the informant Rajkumari Devi was residing at the land in question for which



purcha was issued in her favour since last 30 years on which she constructed a house. The accused persons came and dismantled the house of the informant and set the house on fire, abused the informant by calling caste name and also assaulted the informant.

It is submitted by learned counsel for the petitioners that initially the anticipatory bail application of the petitioners was permitted to be withdrawn since the petitioners want to file appeal but in subsequent judgment of the Division Bench reported in 2016(4) PLJR page 25 (Bisheshwar Mishra and others Vs. The State of Bihar) which clearly suggests that the appeal will lie only against the order passed by the Special Judge and not by Additional Judge and hence, the prayer has been renewed.

The order dated 05.09.2016 passed in Cr. Misc. No. 35575 of 2016 contained in Annexure-1 whereby petitioners' earlier anticipatory bail application was dismissed as withdrawn does not suggest that the application was withdrawn with a leave to appeal.

In the circumstances, this Court is not inclined to revise the earlier order. However, in view of the fact that the accusation has been levelled in the background of land dispute when the petitioners claim the land in question on the basis



of purchase through a registered sale deed and a criminal case has also been lodged by the petitioners' side being Chiraiya P.S. Case No. 85 of 2015 against the informant, it is a case for consideration of prayer for bail, if the petitioners surrender before the learned court below within a period of six weeks from today in connection with Chiraiya P.S. Case No. 86 of 2015 pending in the court of learned ACJM, Sikarahana at Dhaka, Motihari.

With the above observation, this application is disposed of.

(Dinesh Kumar Singh, J)

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