

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51645 of 2017

Arising Out of PS.Case No. -251 Year- 2016 Thana -DESARI District- VAISHALI(HAJIPUR)

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1. Arun Sharma, S/o Kisuni Sharma @ Amit Kumar Sharma,
2. Amit Sharma @ Amit Kumar Sharma S/o Arun Sharma, Both R/o
Village- Bihjadi, P.S.- Desari (O.P. Sahdei) District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar

For the State : Dr. Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 11-01-2018

Heard learned counsel for the petitioners and the State.

The petitioners apprehend arrest in Desari (O.P. Sahdei) P.S.
Case No. 251 of 2016 instituted for the offence under Sections-325, 379 &
other minor Sections of the Indian Penal Code.

In the written report, there is allegation against petitioner No. 1
of assaulting Kaushalya Devi on head with Khanti. The petitioner No. 2 is
alleged to have assaulted with Dab on head of the informant.

It has been submitted that there is land dispute between the
parties. A proceeding u/S 144 Cr.P.C. is pending between the parties. A case
u/S 21 of "Bihar Privileged person Homestead Tenancy Act" is pending for
cancellation of Parcha in the court of Collector, Vaishali. There is no injury
on the person of the injured.

Learned Sessions Judge has rejected the prayer for anticipatory
bail of the petitioner on the ground that prima facie offence u/Ss SC/ST Act is
made out although the police has not registered a case u/S SC/ST Act.



This court is of the view that the observation of the learned Sessions Judge is only a presumption as the case has been registered for the offence under Sections-341, 323, 324, 325, 379, 504/34 of the Indian Penal Code.

In such circumstances, prayer for anticipatory bail is allowed and it is ordered that the petitioners named above in the event of their arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with in Desari (O.P. Sahdei) P.S. Case No. 251 of 2016 to the satisfaction of learned Sub Judge-III-cum-Additional Chief Judicial Magistrate-II, Vaishali at Hajipur subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable cause will be liable to cancel his bail bond of the petitioners and (3) if petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

(Sanjay Priya, J)

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