

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6460 of 2018

ORDER:

This criminal petition is filed under Section 438 Cr.P.C. by the petitioners/ A1 and A2, seeking release in the event of their arrest in connection with Crime No.102 of 2018, dated 30.04.2018 at 12.30 p.m. on the file of Kataram Police Station, Jayashankar (Bhupalpally) District, registered for the offences punishable under Section 447 and 506 r/w 34 I.P.C. and Section 3(1)(r)(s) and 3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act'),

2. Heard learned counsel for the petitioners and learned Public Prosecutor representing the State and perused the F.I.R., bail application averments and other material on record.

3. The alleged occurrence taken place on 29.04.2018 at 8.30 a.m. A perusal of the very report of the de facto complainant by name M.Vajramma, who belongs to a scheduled caste, shows that she got Ac.0.30 guntas of patta land in Sy.No.58 of Kataram Village and while herself, her husband and son were attending the agricultural operations therein on 29.04.2018 at about 8.30 a.m. the accused came there, one armed with axe and threatened them to leave the property else to axe them by abusing on their caste name saying that assigned land belongs to the accused.

4. Learned counsel for the petitioners submits that it is a false accusation and outcome of political differences.

5. Learned Public Prosecutor opposed the bail application saying the investigation is in progress and there is a bar for anticipatory bail from accusation, which shows attracting of the provisions of the Special Act.

6. Having regard to the facts and circumstances of the case and as none of the offences are punishable above seven years, the police are bound to follow Section 41-A Cr.P.C. and the expression of the Apex Court in Dr. Subhash Kashinath Mahajan v. State of Maharashtra¹, and if at all any arrest of the petitioners is required, they have to take permission from the Superintendent of Police of the District concerned.

7. Accordingly, the Criminal Petition is disposed of. However, this order does not prevent the petitioners to surrender and move for regular bail with notice to the Special Public Prosecutor and the same may be considered on the same day, preferably.

8. Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B. SIVA SANKARA RAO

Date: 16.07.2018
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¹ 2018 (2) ALT 50 SC