

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28692 of 2019

Arising Out of PS. Case No.-83 Year-2018 Thana- KANGLI District- West Champaran

1. SONIYA DEVI @ SONIA MAHTO Wife of Sri Jawahar Mahto Resident of Village- Bheriharwa, P.S.- Kangali, District- West Champaran.
2. Rajbhari Devi Wife of Sri Motilal Mahto Resident of Village- Bheiharwa, P.S.- kangali, District- West Champaran.
3. Kamlawati Devi Wife of Sri Chandasi Mahto Resident of Village- Bheriharwa, P.S.- Kangali, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma
For the Opposite Party/s : Mr.Satyendra Narayan Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 31-07-2019 Heard learned counsels for the parties.

The petitioners have renewed their prayer for anticipatory bail in a case registered for the offences punishable under Sections 341,323,324,307 and 504/34 of the IPC. Section 302 of the IPC was subsequently added.

The prosecution case as per the written report dated 3.11.2018 of Ramlakhan Mahto submitted to the SHO, Kangali Police Station is to the effect that since his childhood, his agnate Jawahar Mahto was cultivating his share of land. On 3.11.2018, the informant requested his agnate Jawahar Mahto to deliver the possession of his share of land as he has attained majority, as a



result, he became furious. It is further alleged that co-accused Jawahar Mahto and his family members including the petitioners surrounded the informant and assaulted him by means of lathi. The informant fled away from the scene, in the meantime, the informant's father Hiralal Mahto came to rescue then co-accused Jawahar Mahto assaulted him with spade on his neck but it caused injury on the head of the informant's father, as a result he fell down and became unconscious. Subsequently, Hiralal Mahto succumbed to the injury during treatment. It is further alleged that when the informant's cousin Bhawani Devi came to rescue his father, she was assaulted by co-accused Motilal Mahto with iron rod causing fracture injury on her hand, thereafter other cousin of the informant namely Punam Devi and her husband Upendra Mahto came to rescue, they were also assaulted with lathi by other co-accused persons.

The petitioners earlier moved this Court with a prayer for anticipatory bail vide Cr. Misc. No. 14319 of 2019 but since on conclusion of investigation, they were not sent up for trial hence they were permitted to withdraw the application with liberty to move afresh if cognizance is taken against the petitioners.

It is submitted by learned counsel for the petitioners that vide charge sheet no. 10/19 dated 31.1.2019 the petitioners were



not sent up for trial but differing with the final form, vide order dated 26.2.2019 passed by the learned J.M. Ist Class, West Champaran, Bettiah cognizance has been taken for the offences punishable under Sections 341,323,324,307,302 and 504/34 of the IPC against all the six accused persons named in the FIR including the petitioners as gets reflected from the order as contained in Annexure 3/1.

It is further submitted that though earlier bail application was withdrawn on 8.3.2019 and order of cognizance was passed on 26.2.2019 but since learned counsel for the petitioners was not properly instructed, hence the earlier application was withdrawn. Learned counsel submits that the specific accusation of assault has been levelled against co-accused Jawahar Mahto and Motilal Mahto. There is no specific accusation of assault against the petitioners and the accusation has been levelled in the background of land dispute. It is further submitted that all the three petitioners are ladies. Statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the petitioners are named in the FIR and on finding prima facie accusation against the petitioners, the learned Magistrate has directed for issuance of



process against cognizance being taken for the offences punishable under Sections 341,323,324,307,302 and 504/34 of the IPC.

Keeping in view the fact that earlier application for anticipatory bail was withdrawn with liberty to renew the prayer, however, the day it was withdrawn, cognizance was already taken but considering the fact that cognizance was taken about eleven days prior to the order being passed, this Court is inclined to consider the prayer for anticipatory bail.

Considering the fact that on conclusion of investigation, the petitioners were not sent up for trial, however, cognizance has been taken after differing with the final form, the petitioners are ladies and there is no specific accusation of assault against them coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the petitioners above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned JM Ist Class, Bettiah, West Champaran in connection with Kangali P.S. Case No.83 of 2018 subject to the conditions laid down in Section 438(2) of



the Cr.P.C.

(Dinesh Kumar Singh, J)

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