

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74990 of 2019

Arising Out of PS. Case No.-239 Year-2018 Thana- BRAHMPUR District- Buxar

1. JAWAHAR SAH @ JAWAHAR LAL SAH @ JAWAHAR LAL PRASAD
S/o Late Raghunath Shah R/o village- Ghurhupur, P.S.- Brahmpur, District-
Buxar
2. Jai Shankar Sah S/o Jawahar Sah R/o village- Ghurhupur, P.S.- Brahmpur,
District- Buxar
3. Om Prakash Sah S/o Jawahar Sah R/o village- Ghurhupur, P.S.- Brahmpur,
District- Buxar

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Choubey
For the Opposite Party/s : Mr.Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 14-02-2020 Heard learned counsel for the petitioners and learned
APP for the State.

The instant application for anticipatory bail has been filed by the petitioners apprehending their arrest in connection with Brahmpur P.S. Case No. 239 of 2018 registered for the offence punishable under sections 447, 341, 323, 354B, 504, 506 and 34 of the Indian Penal Code.

As per allegation made in the F.I.R., there is land dispute between the parties, who are the members of the same family and as per the genealogy one Manrakhan Sah was their common ancestor. It is further submitted by the informant that



the accused persons including three petitioners herein had caught hold of the informant's hair and brought her to the ground. She further stated that the petitioner nos. 2 and 3 misbehaved with her and took away her gold ornaments. It is on the intervention of the neighbours that they went away giving her threats.

It is submitted by learned counsel for the petitioners that as would be evident from the genealogical table, petitioners and the informant belong to the same family and it is as a result of land dispute between the parties that the instant FIR has been lodged with false and concocted allegations. It is further submitted that the petitioners have no criminal antecedent and the learned Court below committed an error in rejecting their application for anticipatory bail holding the same to be not maintainable in view of the fact that they had been given the privilege of the provisions of section 41(1) of the Code of Criminal Procedure. On the ground of maintainability, the learned counsel for the petitioner relies on the judgment dated 30.03.2016 of this Court in the case of ***Tarkeshwar Ram Vs. State of Bihar*** (Cr. Misc. No. 12315 of 2016) as also in the case of ***Gauri Shankar Roy Vs. State of Bihar*** (reported in ***2015(3) PLJR 618***).



The application for bail is opposed by learned APP on the merits of the case.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, nature of allegations, the relationship between the parties together with the judgments relied upon by the petitioners, this Court is inclined to grant anticipatory bail to the petitioners and they are directed to surrender in the court below within a period of six weeks from today and in the event of their arrest or surrender, they will be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Brahmpur P.S. Case No. 239 of 2018, subject to the condition as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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