

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27645 of 2020

Arising Out of PS. Case No.-406 Year-2019 Thana- GHOSI District- Jehanabad

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1. Pintu Kumar S/o Vindeshwari Singh
 2. Raju Kumar @ Rajiv Kumar @ Raju Singh S/o Late Mudrika Singh
 3. Manish Kumar S/o Vindeshwari Singh
 4. Kundan Kumar S/o Kameshwar Singh
- All are resident of Village-Milkichak Rampur, P.S.-Ghoshi, District-Jehanabad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Sahi, Sr. Advocate
		Mr. Kundan Kumar, Advocate
For the Opposite Party/s	:	Mr. Sunil Kumar Pandey, APP
For the Informant	:	Mr. Hari Dayal Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 10-02-2021 Heard the parties including Mr. Hari Dayal Kumar,
learned counsel appearing for the informant.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 147/148/149/341/323/324/337/338/354/307/302 of the Indian Penal Code and Section 27 of the Arms Act.

There are altogether 15 accused persons named in the FIR. Out of those 15, two filed Cr. Misc. No.2123 of 2020 and the present four had filed Cr. Misc. No.10344 of 2020. Both the criminal miscellaneous petitions aforesaid were for



grant of anticipatory bail. The prayer for anticipatory bail was refused by order dated 24.06.2020 for the reason that it was brought to the notice of the Court that the informant is a member of the scheduled caste and his father was assaulted to death.

Petitioners of Cr. Misc. No.2123 of 2020 renewed the prayer for anticipatory bail in Cr. Misc. No.22180 of 2020 on the ground that the informant is not a member of the scheduled caste. Hence, error of record was there which misled the Court to assume that the case is under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Thereafter, this Court noticed to the informant to bring some supporting document that the informant belongs to scheduled caste. No such document was produced on the date of hearing of that application. Hence, prayer for anticipatory bail was allowed to the aforesaid accused persons on merit.

Likewise, the present petitioners were refused anticipatory bail in Cr. Misc. No.10344 of 2020 along with two others, who were granted anticipatory bail subsequently in Cr. Misc. No.22180 of 2020.

Now the report of the District Magistrate, Jehanabad, dated 04.02.2021 is available wherein he has clearly



stated that the informant belongs to extremely backward class and is not a member of the scheduled caste.

Learned counsel for the informant opposed the prayer for bail on the ground that Gita Devi and some other members of the scheduled caste were assaulted in the same occurrence. Hence, the offence under the SC/ST Act is prima facie made out. Learned counsel further submits that the FIR named accused Birendra Singh, Bindeshwari Singh, Ashok Singh and Mahesh Singh were refused prayer for anticipatory bail in Cr. Misc. No.19768 of 2020 on 14.10.2020 by a coordinate Bench of this Court.

It appears from the order of refusal of prayer of anticipatory bail to some other co-accused by the coordinate Bench that the Superintendent of Police found, during supervision, that case under the provision of SC/ST Act is also made out which is mentioned in paragraph 42 of the case-diary.

According to FIR, a dispute was going on for use of rasta. The informant and 25 other families of different castes including scheduled caste, backward class and general category were using that rasta and the FIR named accused were obstructing the use of rasta. On the date of occurrence, all the 15 accused persons variously armed came out and surrounded



the informant and others and committed assault. Father of the informant died of the assault. Gita Devi, who is a member of scheduled caste sustained simple injury during the occurrence and some others sustained simple injury due to pelting of stones. The petitioners' side also sustained injury and a counter case was lodged for the same occurrence. Claim of the petitioners is that the father of the informant died in road accident from the vehicle of the petitioners' side.

The post mortem report of the deceased would reveal that he had sustained single injury at the head which was cause of death. The said single injury does not corroborate the prosecution allegation of commission of assault by 15 persons. Likewise, Gita Devi had sustained single injury which was simple in nature. Moreover, the occurrence did not take place for the reason that the petitioners were intending to humiliate a member of scheduled caste; rather occurrence took place for alleged dispute of rasta and in that occurrence petitioners' side sustained injury from the informant's side. Different persons of different caste other than the scheduled caste had also allegedly sustained injury from both sides.

Considering the facts of this case aforesaid, evidently no case of atrocity against a member of scheduled



caste is made out. Hence, bar of anticipatory bail is not attracted.

Considering the general and omnibus nature of allegation, which is not corroborated by medical report, in my view, petitioners deserve anticipatory bail. Hence, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Ghosi (Okari) Police Station Case No. 406 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the petitioners shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioners.

The petitioners shall not leave the country without permission of the trial Court.

(Birendra Kumar, J)

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