

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35312 of 2020

Arising Out of PS. Case No.-153 Year-2013 Thana- DEEPNAGAR District- Nalanda

1. MUSMAT KAMALA DEVI Wife of Late Ramesh Paswan, Resident of Village - Sadhopur, P.S.- Deepnagar, District - Nalanda at Bihar Sarif.
2. Putul Devi Wife of Indal Paswan, Resident of Village - Sadhopur, P.S.- Deepnagar, District - Nalanda at Bihar Sarif.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vishwa Ranjan Choudhary, Adv.
For the Opposite Party/s : APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 19-03-2021 Heard both sides.

The petitioners apprehend their arrest in Deepnagar P.S. Case No.153 of 2013 registered under Sections 109, 435, 336, 353 and 34 of the Indian Penal Code.

The informant alleged that in pursuance of order passed in CWJC No.11390 of 2010, the Circle Inspector, the Executive Magistrate, the Officer-in-Charge, Deepnagar and police officials went to the place of occurrence to remove the encroachment made by Kamala Devi (petitioner no.1). It is alleged that the petitioners made protest for removing the encroachment.



Learned counsel for the petitioners submits that the encroachment has been removed. The other allegations are false and concocted. The petitioners did not make any protest for removing the encroachment. The petitioners only insisted for measurement of the land. It is further submitted that the Investigating Officer did not require the custodial interrogation of the petitioners and the petitioners were granted privilege under Section 41(1) of the Cr.P.C. It is further submitted that since Section 353 of the I.P.C. is non-bailable, there is apprehension of their arrest.

From the facts, it appears that the case is of the year 2013. The police did not require the custodial interrogation of the petitioners and, therefore, the privilege of Section 41(1) of the Cr.P.C. was extended to the petitioners. It appears from the facts that the petitioners had earlier filed A.B.P. No.219 of 2014 and the same was rejected. Thereafter, again the petitioners filed A.B.P. No.3084 of 2019 and the same was also rejected. Thereafter the petitioners moved this Court. On the face of it, it appears that the petitioners even after rejection of their anticipatory bail petition avoided their appearance in the court after 2014.

Having considered the facts aforesaid, I am not



inclined to enlarge the petitioners on anticipatory bail.
Accordingly, the same is rejected.

(Prabhat Kumar Jha, J)

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