

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61705 of 2023

Arising Out of PS. Case No.-108 Year-2022 Thana- ANDHRATHARHI District- Madhubani

1. Binay Narayan Jha S/O Late Shubh Narayan Jha R/O Village - Gonouli, P.S. - Andra Tharhi
2. Gauri Devi @ Gauri Jha W/O Binay Narayan Jha R/O Village - Gonouli, P.S. - Andra Tharhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kripa Nand Jha, Advocate

For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 16-10-2023 Heard Mr. Kripa Nand Jha, learned counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Andhra Tharhi P.S. Case No. 108 of 2022, registered for the offences punishable under Sections 341, 323, 504, 506, 354(B), 325 and 509/34 of the Indian Penal Code.

3. It is alleged that while the informant was taking bath in her courtyard, the petitioner no. 1 recorded video of the same and when the informant alongwith her husband made complaint of such nefarious activities, both the petitioners along with other unknown persons assaulted the informant and her husband. It is also alleged that petitioner no. 1 tried to outrage the modesty of the informant also.



4. Learned counsel appearing on behalf of the petitioners submits across the Board that the petitioner no. 1 is non-else but the full brother of the husband of the informant and admittedly there is a land dispute on account of partition standing between both the families. He next submitted that the petitioner no. 1 happens to be elder brother-in-law (*bhaisur*) of the informant and the allegation, as such, levelled against him in the back drop of partition dispute does not appear to be trustworthy, that too, just two months earlier, the petitioner had filed Andhra Tharhi P.S. Case No. 01 of 2022 against the informant and her husband on 07.01.2022, the copy of which is marked as Annexure – 4. He also drew the attention of this Court that the application has also been filed by the petitioners before the Circle Officer, Andhra Tharhi for demarcation of their share, whereupon, the Circle officer vide his order dated 04.03.2022 directed the Anchal Amin for measurement, but the husband of the informant did not get ready for apportion of paternal property. The dispute of the partition has been brought before the Sarpanch of the panchayat, who has divided the share among the parties, but that has not accepted by the informant and her husband. The present FIR is nothing but an ulterior move to settle the score. He lastly submitted that the petitioner no. 1 is consultant in BSFC, BUDA under Health Department



and so far the petitioner no. 2 is concerned, she is his wife. However, the petitioner no. 1 bears two criminal antecedent, but the same is instituted at the behest of the informant and her husband.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the relationship of the parties and the allegation levelled in the FIR, apart from the admitted partition dispute pending between them, let the petitioners above named be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Jhanjharpur (Madhubani) in connection with Andhra Tharhi P.S. Case No. 108 of 2022, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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