

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79661 of 2024

Arising Out of PS. Case No.-533 Year-2023 Thana- BUXAR MUFFSIL District- Buxar

1. Samsuddin Ansari @ Shamshuddin Ansari, Son of Sahadat Ansari, Resident of village- Kathgharwa, Police Station- Buxar (Muffasil), District- Buxar.
2. Farzana Khatoon, wife of Samsuddin Ansari alias Shamshuddin Ansari, Resident of village Kathgharwa, Police Station- Buxar (Muffasil), District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jamila Khatoon, wife of Sadakat Ansari, resident of village Kathgharwa, Police Station- Buxar (Muffasil), District- Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Rai Sharma, Advocate

For the Opposite Party/s : Mr. M. K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 22-11-2024 Heard Mr. Manish Rai Sharma, learned Advocate for the petitioners and the learned APP for the State.

2. The petitioners are apprehending their arrest in connection with Buxar (M) P.S. Case No. 533 of 2023 registered for the offences under Sections 341, 323, 354(b), 504 and 506 of the Indian Penal Code.

3. Based upon the written report, it is alleged that on 17.12.2023 while the informant was returning from the market, all the six accused persons intercepted her and started assaulting. It is also alleged that the accused persons threatened



the informant to arrive at a compromise in a case earlier filed against them. In the meantime, while the daughter of the informant came to her rescue, she was also assaulted by the accused persons and allegedly they outrage her modesty and forced them to arrive at compromise.

4. Learned Advocate for the petitioners drawing the attention of this Court to paragraph 3 of the bail application submits that in fact there is a prolong litigation going on between the parties and the informant is non-else, but the own sister-in-law (Bhabhi) of petitioner no.1. It is next contended that so far the allegation with regard to extending threatening to compromise a case earlier filed against them is concerned, the same is pending consideration before this Court in Cr. Misc. No. 53684 of 2023, which has been admitted by this Court and as such, there is no reason or occasion to threaten the informant to compromise the matter. It is next contended that other co-accused persons, having similar allegation, have been accorded the privilege of Section 41A of the Cr.P.C. whereas against the petitioners, as they came to know that process under Section 82 of the Cr.P.C. has been issued and, as such, the petitioners have left with no option.

5. On the other hand, learned APP for the State



opposes the bail application and submits that since the process under Section 82 of the Cr.P.C. has already been issued, the present anticipatory bail application is not maintainable in view of the decision of the Hon'ble Supreme Court in the case of **Lavesh Vs. State of (NCT of Delhi), [(2012) 8 SCC 730]**.

6. At this juncture, learned Advocate for the petitioners contended that the present bail application has been filed prior to the issuance of the process under Section 82 of the Cr.P.C. Moreover, the other accused persons, having similar allegation, have been accorded the privilege of Section 41A of the Cr.P.C., but has been denied to the petitioners.

7. Regard being had to the submissions made on behalf of the parties and taking note of the fact that all the offences are punishable for an imprisonment of seven years, this Court directs the petitioners to approach before the investigating officer of the case along with a copy of the order of this Court, who shall take note of the fact that other accused persons have been allowed the privilege of Section 41A of the Cr.P.C. and the same has been denied to them.

8. Suffice it to observe that the parties are on litigating term and there is every chances of false implication.

9. With the aforesaid observation, the present bail



application stands disposed of.

(Harish Kumar, J)

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