

Nirmala Devi Vs. The State of Jharkhand

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Court : Jharkhand

Decided On : Aug-21-2017

Appellant : Nirmala Devi

Respondent : The State of Jharkhand

Advocate for Pet/Ap. : Mr. Amit Kumar Das

Judgement :

1 B.A. No. 4706 of 2017 IN THE HIGH COURT OF JHARKHAND AT RANCHI
B.A. No. 4706 of 2017 Nirmala Devi, wife of Yogendra Saw Petitioner -V e r s u s -
The State of Jharkhand ... Opposite Party CORAM: - HONBLE MR. JUSTICE DR.
S. N. PATHAK For the Petitioner : Mr. Amit Kumar Das, Advocate. Ms. Pooja
Kumari, Advocate. For the State : Mr. Ajit Kumar, Advocate General. Mr. Chanchal
Jain, Advocate. Mr. Abhay Kumar Tiwari, APP C.A.V. On 11.08.2017
PRONOUNCED ON2108.2017 Dr. S.N. Pathak, J.

Heard learned counsel for the parties, perused case diary, criminal antecedents of the petitioner as well as various orders passed in similar nature of cases in connection with petitioner and co- accused. Instant bail petition has been filed on behalf of the petitioner - Nirmala Devi in connection with Barkagaon P.S. Case No. 228/2016 [G.R. No. 2736/2016], for the offence under Sections 147, 148, 149, 341, 342, 323, 324, 325, 326, 307, 332, 333, 353, 188, 427, 109, 224, 225, 337, 338, 120(B) of the Indian Penal Code and Section 27 of the Arms Act. Petitioner happens to be sitting MLA and wife of Ex- Minister of State of Jharkhand and she

along with her husband and son had been granted bail by this Court in the instant matter vide order dated 13.12.2016 in B.A. No. 10407 of 2016. However, pursuant to the order passed in Cr. Appeal No. 930/2017 arising out of S.L.P.(Crl.) No. 1552 of 2017, petitioner surrendered before the Court below on 22.05.2017 and after rejection of bail by the trial court, has moved the instant application for bail. Mr. Amit Kumar Das, learned Counsel for the petitioner assisted by Ms. Pooja Kumari, strenuously urged that petitioner is absolutely innocent and has committed no offence. She has been falsely implicated in this case. Learned counsel further submitted that in order to ruin political career of petitioner and her family, she has been named in the FIR. She has been made escape goat at the instance of district administration and the political leaders as she happens to be local MLA and wife of Ex.-Minister and has a good public support since she has been involved in raising voice of the public. Learned counsel submitted that petitioner being local MLA2B.A. No. 4706 of 2017 was supporting peaceful Dharna and protest of the local people whose lands had been acquired and were not properly compensated in lieu thereof and made to be displaced at the mercy of nature. Learned counsel further submitted that the people of the area were on peaceful agitation for bringing to the notice of administration and NTPC their genuine grievance but they had been subjected to police atrocities. Learned counsel further submitted that petitioner was arrested on 26.10.2016 in connection with instant case. However, she was released on bail pursuant to the order dated 13.12.2016 passed by this Court in B.A. No. 10407 of 2016. However, since said order dated 13.12.2016 had been set aside vide order dated 08.05.2017, passed in Cr. Appeal No. 930/2017 arising out of S.L.P.(Crl.) No. 1552 of 2017, the petitioner surrendered before the Court below on 22.05.2017 and is cooperating with the trial. Learned counsel further argued that petitioner and her family members are ground level political workers having good public support and therefore, out of wrath, ill motive and to take political mileage, instant case has been instituted against them to ruin their political career. It is further argued that petitioner was on peaceful agitation and it is the police and administration who made hue and cry and unnecessarily fired on the mob. On the other hand, Mr. Ajit Kumar, learned Advocate General assisted by Mr. Chanchal Jain and learned APP, has opposed the contention and submitted that petitioner's role cannot be denied in the alleged occurrence as the entire

incident revolves towards providing contract works to petitioner's son and all efforts were made to get the contract in the name of her son Ankit Raj, after bypassing all the terms and conditions and ignoring other contractors. Learned Advocate General further submitted that the earlier bail order granted by this Court has been quashed in view of the fact that Case Diary and Criminal Antecedent was not perused. Petitioner and her husband are in the habit of breaking the law and order and always takes shelter of mob for instigating poor villagers against the administration for their own personal and political mileage. Learned Advocate General further refers to various paragraphs of the Case Diary i.e. paragraphs-82, 89, 115 and 120 thereof. Learned Advocate General further submitted that looking into seriousness of the matter, some stringent conditions may be imposed against the petitioner. 3 B.A. No. 4706 of 2017 Learned Advocate General further submitted that due to petitioner and other accused persons and their supporters, the entire developmental work and progress of NTPC Project is at standstill and work is being hampered. Learned Advocate General submits that petitioner and her husband are habitual offenders and have criminal antecedent of similar nature of cases. If the petitioner and other co-accused are released on bail, they would tamper with the evidence and may influence the witnesses. Having heard counsel for the parties and considering facts and circumstances, it is apparent that admittedly mob and the miscreants were raising slogans in the name of the petitioner and her husband. Petitioner's husband was instigating the mob to get the petitioner - Nirmala Devi released and to put pressure upon the NTPC to get the contract in favour of their son. Informant has clearly alleged that Yogendra Sao and his wife Nirmala Devi (petitioner) were leading the miscreants to restrain the mining works being done by the NTPC and both the accused tried to enter into the mining area in the night of 15/16.09.2016 with their associates, but were stopped by the administration. It has come in the case diary that on 01.10.2016, Nirmala Devi was sitting on Dharna with her supporters and obstructed the route. On seeing the police force, she started abusing and on being asked not to commit such act, she disobeyed the order and instead threatened the Police that if she is arrested then no one will be left alive. When accused Nirmala Devi was arrested and taken into custody and sent through a police van, her supporters at the instigation of Yogendra Sao stopped the police van and forcefully relieved her from

custody. Miscreants assaulted police and administration. The informant and the Circle Officer were brutally assaulted and they received severe injuries. Nirmala Devi was instigating the mob to kill all the police and administration people. To disburse the mob, police used tear gas and also fired some shots. Thereafter, Circle Officer was air lifted to give medical aid at Ranchi. There is clear allegation of disrupting the administration and developmental work. The mob and the miscreants were shouting slogans in their name and further were trying to rescue the petitioner - Nirmala Devi from police custody on their orders. From the facts and circumstances mentioned hereinabove, it is apparent that petitioner is a habitual offender. In the instant case, petitioner has obstructed the Police and Administration and has tried 4 B.A. No. 4706 of 2017 to say good bye to the administration by instigating the mob to rescue her from police custody. It is only at the instigation of petitioner and her husband, the Circle Officer and other persons sustained injuries and law and order problems arose. Considering aforesaid aspects of the matter, I am not inclined to release the petitioner on bail. Consequently, the prayer for bail of the petitioner is rejected in connection with Barkagaon P.S. Case No. 228/2016 [G.R. No. 2736/2016] pending in the Court of Smt. Reecha Shrivastava, Judicial Magistrate, 1st Class, Hazaribagh or her successor Court. RC/ (Dr. S. N. Pathak, J.)

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