

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.501 of 2016

Arising Out of PS.Case No. -69 Year- 2016 Thana -PATRAKARNAGAR District- PATNA

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1. Dinesh Kumar Son of late Damodar Lal Das Resident of Mohalla- SBI Colony, P.S Patrakarnagar, District Patna.
 2. Suman Kumar@ Pramod Kumar Suman Son of Banaras Prasad Resident of Mohalla- SBI Colony , P.S. Patrakarnagar, District Patna.
 3. Priya Ranjan Patel@Priya Ranjan Kumar Son of Nand Kishore Prasad Resident of Kali Mandir Road, Near Navneet Colony, P.S- Patrakarnagar, District Patna.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Lakshmi Kant Sharma
For the Informant : Mr. Shambhu Sharan
Ms. Pallvi Vijeta
For the State : Mr. Binay Krishna, Spl P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 01-05-2018

Heard the learned counsel for the appellants, learned counsel for the informant as well as learned counsel for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by the learned 1st Additional Sessions Judge, Patna in connection with Patrakarnagar P.S. Case No. 69/2016 registered under Sections 427, 447, 436, 307/34 of the Indian Penal Code as well as Sections 3(i)(x) of the SC/ST (Prevention of Atrocities) Act, 1989.



The appellants are members of State Bank of India Employees Housing Co-operative Societies. A dispute is going on between the said co-operative society and Mr. Pravin Kumar Singh for claim over Plot No. 900 under Khata No. 363 in Case No. 1213M/2014. The Sub-divisional Officer, Patna Sadar observed that claims of the co-operative society on the referred land appears to be genuine vide order dated 17.01.2015 (at Annexure-2). Likewise, Mr. Pravin Kumar Singh had brought Land Dispute Case No. 165 of 2014-15 against the co-operative societies for the same plot before the D.C.L.R., Patna Sadar and the D.C.L.R. dropped the proceeding stating that there is complicated issue of title involved which is beyond the jurisdiction of the D.C.L.R. The D.C.L.R. passed order on 09.05.2015. A copy of the same has been produced by the learned counsel for the informant. The same plot is subject-matter of dispute between Mr. Virendra Bahadur Narayan Sinha and Mr. Pravin Kumar Singh in Land Dispute Case No. 160 of 2014-15.

The informant claims to be guard of Mr. Pravin Kumar Singh on the aforesaid land.

Allegation is that the appellants variously armed came there and abused the informant by taking his caste name. They further committed arson in the hut of the informant lying in the aforesaid land. Thereafter, the informant informed to the owner of the land and



the case was lodged.

Learned counsel for the appellants submits that this is a case of land dispute between Pravin Kumar Singh and the appellants and just to pressurize, the informant has been set up to maliciously prosecute the appellants. Hence for the purpose of this appeal for anticipatory bail, the matter is apparently a case of *mala fide* prosecution.

On the other hand, learned counsel for the informant opposed the prayer for bail on the ground that there is specific allegation against the appellants in the F.I.R. disclosing commission of offence under the SC/ST Act. Hence, bar under Section 18 of the Act is applicable. The provisions of Sections 3(1)(f) of the SC/ST Act is attracted in the fact and circumstances of this case because the land was in possession of the informant. Further submission is that there is allegation of commission of arson in the hut of the informant.

In case of Dr. Subhash Kashinath Mahajan Vs. The State of Maharashtra & Another in Cr. Appeal No. 416/2018, the Hon'ble Apex Court held that there is no absolute bar against the grant of anticipatory bail in cases under the Atrocities Act, when on judicial scrutiny the complaint is found to be *prima facie* malafide.

The malafide of the informant is apparent because the informant has been set up by the person with whom the appellants



have land dispute and some of the orders of the competent authority are in favour of the appellants. Moreover, the appellants had some *bona fide* claim to go over the land and it cannot be alleged that the appellants went there only with intention to humiliate a member of SC/ST.

Considering the background of allegation, let the appellants, 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 bond of Rs. 20,000/- (rupees 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 the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

Accordingly, the impugned order is set aside and the appeal stands allowed.

(Birendra Kumar, J.)

Rakhi

AFR/NAFR	
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