

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.1922 of 2018**

Arising Out of PS.Case No. -33 Year- 2017 Thana -SC/ST District- MADHUBANI

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1. Jadu Ram S/o Late Ganga Ram @ Gangai Ram, R/o Mithla Deep Paschim,  
Ward No. 01, Mithla Deep Paschim, P.S.- Lakhaur, District- Madhubani.

.... .... Appellant/s

Versus

1. The State of Bihar.
2. Bauan Yadav S/o Bilauti Yadav,
3. Pramod Yadav S/o Bauan Yada, Both Opposite Parties No. 2 and 3 are R/o  
Vill.- Deep, P.S.- Lakhaur, (R.S O.P.), District- Madhubani.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Alok, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Advocate

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 18-07-2018**

This appeal is barred by limitation of 125 days. The delay is explained in I.A. No.1636 of 2018, a petition under Section 5 of the Limitation Act. Hence, the delay is condoned.

Heard learned counsel for the parties.

This appeal has been preferred for cancellation of anticipatory bail granted to respondent Nos.2 and 3 by the learned Additional Sessions Judge 1<sup>st</sup>, Madhubani, in A.B.P. No. 1064 of 2017, arising out of SC/ST P.S. Case No.33 of 2017, a case registered under Section 341/323/354B/447/504/34 of the Indian Penal Code and Sections 3(i)(a)/3(i)(r)/3(i)(w)/3(ii)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The



anticipatory bail has been granted considering the fact that most of the offences under the Indian Penal Code are bailable. There is old land dispute between the parties and there was case and counter case.

Learned counsel for the appellant submits that anticipatory bail is barred under Section 18 of the SC/ST Act. Learned counsel for the appellant has relied on the judgment of Hon'ble Apex Court in **Bachhu Das V. The State of Bihar and others** reported in (2014) 3 SCC 471 for his contention that when prima facie allegation is there the bar is applicable.

In a recent judgment in the case of **Dr. Subhash Kashinath Mahajan V. the State of Maharashtra and others** reported in 2018(2) PLJR SC 126, the Hon'ble Apex Court observed that there is no absolute bar against grant of anticipatory bail in cases of SC/ST Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be mala fide.

In the present case, the learned Court-below has found that old land dispute is the reason for allegation. There is case and counter case between the parties and has also considered nature of offences alleged under the Indian Penal Code.

After hearing the parties, I do not find any strong reason to interfere with the impugned order in view of the well settled principle in Dr. Subhash Kashinath Mahajan's case. Therefore, this appeal has



no merit. Accordingly, it stands dismissed. There is no reason that respondent Nos.2 and 3 will not cooperate with the trial and the Court-below would go in a lethargic way leaving any stone untouched for speedy trial of the case.

**(Birendra Kumar, J)**

Mkr./-

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