

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.774 of 2019

Arising Out of PS. Case No.-19 Year-2016 Thana- SC/ST District- Buxar

1. Shashi Bhushan Rai @ Dabbu Rai S/o Late Jata Shankar Rai Resident of village and P.O-Sarenja, P.S-Rajpur, District-Buxar
2. Manish Kasera @ Manish Kumar S/o Bigan Kasera resident of village and P.O-Sarenja, P.S-Rajpur, District-Buxar

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manendra Kumar Sinha

For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

5 16-07-2019 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 17.01.2019 passed by learned 1st Additional Sessions Judge cum Special Judge SC/ST, Buxar in connection with SC/ST P.S. Case No. 19 of 2016 registered under Sections 341, 323, 354-B & 504/34 of the Indian Penal Code and Section 3(1) (g) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellants are said to have descended at the house



of the informant and slated her in the name of her caste and also assaulted her by means of slaps. They also asked to vacate the land.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in the case due to land dispute. As a matter of fact, the father of appellant no.1 has given the land to the informant for living in it raising temporary construction thereon but the informant in order to grab the land of his father has raised pucca construction on the said land and on protest she has filed this false and frivolous case against them. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail submitting that the appellants have slated the informant in the name of her caste in public view and also assaulted her and cognizance has been taken by the learned lower Court and more over the appellants are on police bail.

It is settled principle of law that once the appellants have been granted bail either by the police or by the Court, the petition under Section 438 Cr.P.C. on behalf of the appellants is not maintainable.

In that view of the matter, the present appeal is



rejected with a direction to the appellants to surrender before the learned Court below within six weeks from today and seek regular bail and the learned lower Court would consider the same without being prejudiced by this order on the same day.

It goes without saying that the appellants shall be granted the benefit of the judgment of this Court rendered in the case of **Mahendra Prasad Singh Vs. The State of Bihar** reported in **2004 (3) PLJR 491** and particularly para-5 of the judgment.

With the aforesaid observation and direction, this appeal stands disposed of.

(Prakash Chandra Jaiswal, J.)

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