

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1307 of 2019**

Arising Out of PS. Case No.-108 Year-2018 Thana- MADHUBANI TOWN District-
Madhubani

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Dharmendra Mahto S/o Bhogi Mahto R/o village- Basuara, Ward No. 9, P.S.-
Madhubani Town, District- Madhubani.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Raja Kumar Mukhiya S/o Kallar Mukhiya R/o village- Basuara, Ward No. 9,
P.O.- Basuara, P.S.- Madhubani Town, District- Madhubani
3. Kishori Mukhiya Son of Kallar Mukhiya R/o village- Basuara, Ward No. 9,
P.O.- Basuara, P.S.- Madhubani Town, District- Madhubani
4. Kallar Mukhiya S/o Late Raman Mukhiya R/o village- Basuara, Ward No. 9,
P.O.- Basuara, P.S.- Madhubani Town, District- Madhubani
5. Dukhani Devi @ Bikhni Devi W/o Kallar Mukhiya R/o village- Basuara,
Ward No. 9, P.O.- Basuara, P.S.- Madhubani Town, District- Madhubani
6. Munny Devi W/o Kishori Mukhiya R/o village- Basuara, Ward No. 9, P.O.-
Basuara, P.S.- Madhubani Town, District- Madhubani

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sudhir Kumar Mishra
For the Respondent	:	Mr. Jitendra Kumar Bharti
For the Respondent/s	:	Mr. Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

6 27-08-2019 Heard learned counsel for the appellant, learned

counsel for the respondents as well as learned Spl. P.P. for the

State.

This appeal has been filed for cancellation of bail

order dated 19.11.2018 passed by learned 1st Addl. District &

Sessions Judge-cum-Special Judge, Madhubani in T.R. No.

954/2018 and G.R. No. 45/2018 arising out of Madhubani Town



P.S. Case No. 108 of 2018, whereby learned lower court has enlarged the respondent nos. 2 to 6 on regular bail.

It is submitted by learned counsel for the appellant that respondent nos. 2 to 6 have slated the informant in the name of his caste and also assaulted the informant and his family members and pressed the neck of the informant by means of rope. After investigation of the case, I.O. submitted charge-sheet and perusing the case diary, learned lower court has taken cognizance of the offence against the aforesaid respondents but without applying judicial mind and giving opportunity to the appellant, learned lower court has passed the aforesaid order on the very date of surrender by the aforesaid respondents in the court, hence, the aforesaid order is liable to be cancelled.

Per contra, learned counsel for the respondent nos. 2 to 6 submitted that there is case and counter case between the parties. Respondents have been falsely implicated in this case due to land dispute. Allegation levelled against the respondents is not specific rather general and omnibus in nature. None has sustained any injury in the occurrence and no injury report has been brought on record and moreover it is regular bail, hence, the aforesaid order passed by the court below is liable to be upheld.



As per prosecution case, over row of closing passage of the informant, respondent nos. 2 to 6 slated the informant in the name of his caste and dragged him by tying rope on his neck and slapped him. When his mother, father and brother rushed in his rescue, they also slapped them and slated them in the name of their caste. Respondent Raja Mukhiya snatched his golden chain.

There appears to be dispute regarding passage. Allegation levelled against the respondents is not specific rather general and omnibus in nature. None has sustained injury in the occurrence and no injury report has been brought on record as admitted by both the parties during course of argument. Moreover, it is regular bail. There is no allegation of misuse of privilege of bail by the respondents or tampering with the evidence or concealment of facts by the respondents, hence, I do not find any substance in the prayer for cancellation of the aforesaid bail. Accordingly, this appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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