

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1706 of 2019

Arising Out of PS. Case No.-4 Year-2019 Thana- SC/ST District- Araria

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1. Nago Sharma @ Nago Tatwa Son of Tanuk Lal Sharma Resident of Village - Kohwara Vishanpur Majhuwa Tola, ward no. 8, P.S.- Raniganj, Distt - Araria.
 2. Hakama Sharma Son of Nago Sharma Resident of Village - Kohwara Vishanpur Majhuwa Tola, ward no. 8, P.S.- Raniganj, Distt - Araria.
 3. Tiran Sharma Son of Mangal Sharma Resident of Village - Kohwara Vishanpur Majhuwa Tola, ward no. 8, P.S.- Raniganj, Distt - Araria.
 4. Rinki Devi @ Rinku Devi Wife of Tiran Sharma Resident of Village - Kohwara Vishanpur Majhuwa Tola, ward no. 8, P.S.- Raniganj, Distt - Araria.
 5. Durga Devi Wife of Nago Sharma Resident of Village - Kohwara Vishanpur Majhuwa Tola, ward no. 8, P.S.- Raniganj, Distt - Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar Rana
For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

4 10-07-2019 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 referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 27.03.2019 passed by learned 1st Additional Sessions Judge cum Special Judge, Araria in connection with



Araria SC/ST P.S. Case No. 4 of 2019 registered under Sections 448, 323, 379, 504/34 of the Indian Penal Code and Section 3(i) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellants along with one other accused persons are said to have descended at the house of the informant and asked him to vacate his land and on protest made by him, they slated the informant in the name of his caste and assaulted him and his family members and damaged his house and stole his household articles.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in this case by the informant due to ulterior motive. Allegation levelled against the appellants is not specific rather general and omnibus in nature. None has sustained injury in the occurrence. Appellants happens to be Member of SC community, hence, no offence under SC/ST Act is made out against the appellants. Appellants have no criminal antecedent.

Per contra, learned Spl. P.P. for the State opposing the bail prayer of the appellants submitted that the appellants are enjoying the privilege of police bail, hence, there is no



apprehension of their arrest and this anticipatory bail is not maintainable.

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 court below within six weeks from today and seeks regular bail and learned court below shall pass order on the very date of surrender by the appellants in accordance with law considering the facts and circumstances of the case without being prejudiced by this order.

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.

(Prakash Chandra Jaiswal, J)

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