

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2303 of 2019

Arising Out of PS. Case No.-55 Year-2015 Thana- SC/ST District- Purnia

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1. Md. Alauddin S/o Late Garibulla R/o Village- Bhamra, P.O.- Bhamra, Via Kasba- P.S.- Kasba, District- Purnea
 2. Md. Mosahid S/o Md. Alauddin R/o village- Bhamra, P.O.- Bhamra, Via Kasba- P.S.- Kasba, District- Purnea
 3. Md. Sahid S/o Md. Alauddin R/o village- Bhamra, P.O.- Bhamra, Via Kasba- P.S.- Kasba, District- Purnea

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md. Musowir
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 15-07-2019 Heard learned counsel for the appellants and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer of anticipatory bail vide order dated 5.04.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, SC/ST Act, Purnea in SC/ST P.S. Case No. 55 of 2015 registered under Sections 147, 148, 323, 341, 342, 504, 506 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(i)(v)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



All the accused persons are said to have slated the informant and his sons in the name of their caste arriving at his field during the course of levelling his field by the informant through tractor. They also slated the informant and his sons in the name of their caste while they were proceeding to the police station to lodge case against the appellants later on.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. They have been falsely implicated in this case due to land dispute. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Slating the informant and his sons is said to have not been made in the public view as none was present at the place of occurrence. Parties have compromised the matter in the case.

On the other hand, learned Spl. PP for the State opposing the bail prayer of the appellants submitted that cognizance has been taken against the appellants and moreover the appellants are enjoying the privilege of police bail, hence, there is no apprehension of their arrest and the 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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