

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2282 of 2019

Arising Out of PS. Case No.-70 Year-2016 Thana- SC/ST District- Araria

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1. Sarita Devi Wife of Mahesh Kumar Mehta @ Chhabbo Resident of Village- Raghunathpur Uttar, P.S.- Bhargama, District- Araria.
 2. Mahesh Kumar Mehta @ Chhabbo Son of Baso Mahto Resident of Village- Raghunathpur Uttar, P.S.- Bhargama, District- Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Murari Prasad Sinha
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 12-07-2019 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 25.02.2019 passed by learned 1st Addl. Sessions Judge, Araria in Araria SC/ST P.S. Case No. 70 of 2016 registered under Sections 323, 447, 427, 354(B), 379, 504, 506/34 of the Indian Penal Code and Section 3(i)(r)(f) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Father of the informant had sold out his share of



the land to the appellant no. 1 Sarita Devi while the house of the informant is standing on the said land. On the date of occurrence, the appellants along with two other named 25-30 unnamed accused persons armed with weapon arrived at the house of the informant and slated him in the name of his caste and appellant Mahesh Kumar Mehta tore attire of the wife of the informant and accused Narayan Mehta threw away his household articles.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. As a matter of fact, the father of the informant had sold out the land in question in favour of the appellant no. 1. Father of the informant has given information to the S.H.O. Bhargama Araria to the effect that he has sold out the land to the appellant no. 1, and the informant has filed this false and frivolous case against the appellants. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Informant has not sustained any injury in the occurrence, hence, the appellants may be enlarged on bail.

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 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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