

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2342 of 2019

Arising Out of PS. Case No.-860 Year-2017 Thana- COMPLAINT CASE District- Jamui

1. RAMSHARAN MAHATO Son of Late Munshi Mahato Resident of Village - Dhawatanr Tola, P.S.- Chandramandih, District- Jamui
2. Dashrath Mahato Son of Uma Mahato
3. Huro Mahato Son of Late Saryu Mahato
4. Chakradhar Prasad Kushwaha @ Chakar Mahto Son of Late Lalman Mahto
5. Ritlal Mahato Son of Late Darogi Mahato
6. Devi Mahato Son of Late Prem Mahato
7. Chotan Mahato @ Chhotan Mahto Son of Late Lalman Mahto
8. Manoj Mahato Son of Ramsharan Mahto
9. Kedar Mahato Son of Devi Mahato
10. Panchu Mahato Son of Thakur Mahato

... .. Appellant/s

Versus

1. THE STATE OF BIHAR.
2. Sri Kamal Das Son of Late Karn Das, resident of village Dhawatand Ramatand, Police Station Chandramandih, District- Jamui.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Brajesh Sahay
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 23-07-2019 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 29.4.2019 passed by learned 1st Additional Sessions



Judge, Jamui in connection with Complaint Case No. 860 (c) of 2017, registered under Sections 323, 147, 504, 379 of the Indian Penal Code and also under Section 3/10 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in which cognizance of offences have been taken U/s 147, 323, 504, 379 of the I.P.C. and Section 3 (1) (r) (s) of the SC/ST (Prevention of Atrocities) Act.

The appellants armed with deadly weapons arrived at the house of the complainant and slated him in the name of his caste and also assaulted him and his wife by means of Lathi, Danda and they also made him to lick spit over ploughing their land by the complainant.

It is submitted by the 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. The land was earlier settled in favour of the Bichho Mahra and Gulo Mahra which has already been set aside by the D.M. Jamui vide order dated 06.06.2018. Allegation of slating the informant in the name of his caste levelled against the appellants is not specific rather general and omnibus in nature. They have no criminal antecedent. Hence, they may be enlarged on bail.



Learned Spl. P.P. for the State opposing the prayer for bail submitted that appellants have slated the informant in the name of his caste and also assaulted the informant and his wife. Moreover, learned lower Court finding prima facie case against the appellants has taken cognizance against them under the SC/ST Act and several sections of I.P.C. hence, anticipatory bail is barred by Section 18 SC/ST Act. Hence, appellants do not deserve bail.

Considering the facts and circumstances of case, I am not inclined to enlarge the appellants on bail. The prayer for bail of the appellants is hereby rejected.

However, the appellants are directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below is directed to pass an appropriate order in accordance with law without being prejudiced by this order on the very date of surrender by the appellants.

Accordingly, the present appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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