

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.2318 of 2019**

Arising Out of PS. Case No.-673 Year-2017 Thana- SAMASTIPUR MUFFASIL District-  
Samastipur

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1. Rizwanul Haque S/o Zayul Haque R/o village- Bikrampur Bande, P.S.-  
Samastipur Mufassil, District- Samastipur
  2. Md. Akhlaque S/o Ejazul Haque R/o village- Rahimpur Rudauli, P.S.-  
Samastipur Mufassil, District- Samastipur
  3. Sonu Kumar S/o Mahendra Paswan R/o village- Bikrampur Bande, P.S.-  
Samastipur Mufassil, District- Samastipur
  4. Mahendra Paswan S/o Saukhi Paswan R/o village- Bikrampur Bande, P.S.-  
Samastipur Mufassil, District- Samastipur
  5. Md. Tarique S/o Late Ramzani Resident of Hayaghat, P.S.- Hayaghat,  
District- Darbhanga

... .. Appellants

Versus

The State Of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Baxi S.R.P. Sinha, Sr. Adv.

Mr. Satish Kumar Sinha, Adv.

For O.P. : Mr. Nafisuzzoha, Adv.

For the State M/s. Usha Kumari 1, Special P.P.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR**  
**SRIVASTAVA**  
**ORAL JUDGMENT**

**Date : 16-11-2019**

Heard learned counsel appearing for the appellants,  
learned Additional Public Prosecutor for the State as well as



learned counsel appearing for the informant and perused the record.

This criminal appeal has been preferred under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act against the order dated 08.05.2019 passed by learned 1st Additional Sessions Judge, Samastipur by which and whereunder, he refused to grant privilege of anticipatory bail to appellants holding that anticipatory bail is not maintainable in the case registered under the provision of SC/ST (Prevention of Atrocities) Act.

Learned counsel appearing for the appellants, at the very outset, points out that appellant no. 3, namely, Sonu Kumar and appellant no. 4, namely, Mahendra Paswan belong to Scheduled Caste community and, therefore, the provisions of SC/ST (Prevention of Atrocities) Act are not applicable against them. So far as remaining sections for which cognizance has been taken are bailable in nature. He further submits that FIR reflects that occurrence took place on account of land dispute but the informant lodged this case with exaggerated story and, therefore, in the aforesaid circumstance, the anticipatory bail of the appellants is maintainable.

Learned counsel of the appellants further points out that informant belongs to Tanti @ Tantwa Caste which does not come



under the purview of Scheduled Caste or Scheduled Tribe community. He further submits that no doubt, the Division Bench of this Court in CWJC No. 10650 of 2015 and other analogous cases deleted Tanti @ Tantwa Caste from the list of Backward community but up till now, the above stated caste has not been notified as Scheduled Caste or Scheduled Tribe community and, therefore, the provision of SC/ST (Prevention of Atrocities) Act is not applicable in the present case.

On the other hand, learned counsel appearing for the informant as well as learned Additional Public Prosecutor submit that the appellants were granted bail under Section 41 A of the Cr.P.C. by the police and, therefore, this anticipatory bail petition is not maintainable.

Para 17 of memo of appeal goes to show that appellants have specifically pleaded that they were granted bail by the police under Section 41 A of the Cr.P.C. and they have never misused the privilege of aforesaid bail.

In view of the aforesaid facts and circumstances as well as submissions of the parties, this criminal appeal stands disposed of with direction to appellants to surrender before the court of learned Additional Sessions Judge-I, Samastipur in connection with Samastipur (Muffasil) P.S. Case No. 673 of 2017 within four



weeks and if they do so, the concerned court shall pass appropriate order on their surrender, particularly, keeping in mind the law laid down in the case of Mahendra Prasad Singh Vs. The State of Bihar reported in 2004(3) PLJR, 491.

**(Hemant Kumar Srivastava, J)**

shahzad/-

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