

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2788 of 2019**

Arising Out of PS. Case No.-121 Year-2019 Thana- VAISHALI District-
Vaishali

- =====
1. PARAS RAI Son of Late Kishun Rai Resident of Village - Kesopur, P.S.-
Vaishali, District - Vaishali.
 2. Deepak Rai Son of Paras Rai Resident of Village - Kesopur, P.S.- Vaishali,
District - Vaishali.
 3. Sunil Rai Son of Paras Rai Resident of Village - Kesopur, P.S.- Vaishali,
District - Vaishali.
 4. Raju Rai Son of Moti Rai Resident of Village - Kesopur, P.S.- Vaishali,
District - Vaishali.
 5. Ankaj Kumar Son of late Lakhindra Rai Resident of Village - Kesopur,
P.S.- Vaishali, District - Vaishali.
 6. Pappu Kumar Son of Pukar Rai Resident of Village - Kesopur, P.S.-
Vaishali, District - Vaishali.
 7. Dinesh Kumar Son of Bhikhari Rai Resident of Village - Kesopur, P.S.-
Vaishali, District - Vaishali.
 8. Kundan Kumar Son of Surendra Rai Resident of Village - Kesopur, P.S.-
Vaishali, District - Vaishali.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellants : Mr. Anish Chandra, Advocate.
For the State : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

5 16-11-2019 Heard learned counsel for the appellants and learned
APP for the State.

2. The present appeal has been filed “*against the order dated 24.05.2019 passed in A.B.P. No. 1073 of 2019 arising out of Vaishali P.S. Case No. 121 of 2019 by the learned Additional Sessions Judge-1st-cum- Special Judge (SC/ST Act), Vaishali at Hajipur whereby and whereunder the prayer for anticipatory bail*



of the appellants have been rejected.”

3. Learned counsel for the appellants submits that the F.I.R. is excessious and vengeful in the backdrop of dispute over grazing of goat. There is case and counter case between the parties. It is submitted that the accusation of using caste name is attributed to only appellant no. 1 but in any event the occurrence is alleged to have taken place at the door of the appellant no. 1 and as such the same was not in public view. The ingredients of the offence under SC/ST Act are therefore not attracted and the bar against grant of anticipatory bail under Section 13 of the SC/ST Act does not come in the way. As regards offences under the Penal Sections, the offence under Section 324 IPC is non bailable while all other offences are bailable. It is submitted that there is no material to indicate that anyone has sustained any injury. The appellants claim clean antecedents.

4. Learned APP assisted by learned counsel for the informant appears and has been heard. Learned APP refers to paragraph-2 of the case diary containing the written statement of the informant reiterating the use of caste name by the appellant no. 1.

5. Considering that there is nothing to indicate that the offence alleged under the SC/ST Act was committed in public view in order to attract the ingredients of offence under the SC/ST Act as well as the injury report in the case diary disclosing simple injury, in the event of the appellants' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named appellants be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum-Special Judge (SC/ST Act), Vaishali at Hajipur in connection with Vaishali P.S. Case No. 121 of 2019 subject to the conditions as laid down



under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of the appellants.

(ii) That the appellants shall not indulge in any similar offence till conclusion of the trial.

(iii) That the appellants shall cooperate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the appellants shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

6. The impugned order as concerns the present appellants is set aside. The appeal is allowed.

(Vikash Jain, J)

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