

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2830 of 2019**

Arising Out of PS. Case No.-113 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

Sumesh Mishra @ Sumesh Kumar Mishra Son of Kaushlendra Mishra
Resident of Village- Chakhabib, P.S.- Bibhutipur, District- Samastipur.

... .. Appellant.

Versus

1. The State of Bihar.
2. Sahdeo Paswan, S/O Ram Kisun Paswan Resident of village-Dih Chakhabib, P.S-Bibhutipur, Dist-Samastipur

... .. Respondents.

Appearance :

For the Appellant/s : Mr. Ajay Kumar Thakur, Adv.

Mr. Pravin Kumar, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Special P.P.

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 06-08-2019 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 in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 08.05.2019 passed by learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Samastipur in connection with Complaint Case No. 113 of 2017 registered under Section 323 of the Indian Penal Code and Section 3(1) (r) (s)/3 (2) (va) of the Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act.

Appellant along with four other accused persons are said to have descended at the land of the complainant and forbade him from fixing bamboo and peg on the land. He slated in the name of his caste. He also dragged him on the road by tying his neck and when his Bhabhi rushed in his rescue he also assaulted and pushed her.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case due to land dispute. As a matter of fact, there is a land dispute between the parties and the matter was settled between the parties by the C.O., Bibhutipur and it was agreed that none of the parties will construct hut or raise any construction over the said land but violating the order of the C.O. the informant was fixing bamboo and peg on the land and to cover up his own misdeed the informant has filed this false and frivolous case against the appellant. The allegation levelled against the appellant is not specific rather general and omnibus in nature. None has sustained injury in the occurrence. Earlier to the case under hand, the informant had lodged Complaint Case No.113 of 2018 and finding the case not true the I.O. has submitted final form in the case and the said final



form has been accepted by the learned Court below. Appellant has no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Samastipur in connection with Complaint Case No. 113 of 2017 subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Prakash Chandra Jaiswal, J)

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