

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3082 of 2019**

Arising Out of PS. Case No.-161 Year-2018 Thana- BAHERI District- Darbhanga

1. Ram Sagar Lal Son of Late Manni Lal @ Mahavir Lal Resident of Village- Baheri East, Police Station- Baheri, District- Darbhanga.
2. Gopal Lal Son of Late Roop Lal Resident of Village- Baheri East, Police Station- Baheri, District- Darbhanga.
3. Sanatan Lal Son of Gopal Lal @ Late Roop Lal Resident of Village- Baheri East, Police Station- Baheri, District- Darbhanga.
4. Shyam Sah Son of Laxmi Sah Resident of Village- Baheri East, Police Station- Baheri, District- Darbhanga.
5. Ganesh Kumar Lal @ Ganesh Lal Son of Yogendra Lal Resident of Village- Baheri East, Police Station- Baheri, District- Darbhanga.

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Prasad
For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 18-09-2019 Heard learned counsel for the appellants, learned counsel for the informant 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 15.06.2019 passed by learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Darbhanga in



connection with Baheri P.S. Case No. 161 of 2018 registered under Sections 147, 149, 323, 379 & 354/504 of the Indian Penal Code and Section 3(1) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

When the informant was raising pillar on her land obtained by Basgit Parcha, six named accused persons including the appellants armed with rod descended there and intervened them from raising the pillar and on protest made by the informant Vidya Sagar Lal slating him in the name of caste shoved her on the ground and assaulted on her waist by means of rod while Ram Sagar Lal and Sanatan Lal assaulted him by means of leg and fist and when her husband rushed in her rescue, they also assaulted him by means of lathi. They also relieved her of her ornaments and damaged her hut and looted away household articles.

It is submitted by learned counsel for the appellants that appellants have no concern with the aforesaid occurrence. Appellants have been falsely implicated in the case due to land dispute. As a matter of fact, property in question has been purchased by the father of the appellants in the year 1963 and the appellants are in possession thereof. For the cancellation of the said Basgit Parcha, appellants have lodged the case



against the informant and others and notice in the said case has been issued against them. The allegation levelled against the appellants is not specific rather general and omnibus in nature. Barring the informant, none has sustained injury in the occurrence and moreover the informant has sustained injury of diffuse tenderness on her back and on both elbows but opinion regarding the said injury has not been submitted as yet despite reserving the opinion on 06.08.2018. Witnesses in paragraphs- 18 &19 of the case diary have not stated about slating the informant in the name of caste by the appellants rather stated about taking place of altercation and assault between them over the land dispute. I.O. has not found the hut of the informant damaged at the place of occurrence. Barring one another case lodged against the appellants by the informant, appellants have no criminal antecedent.

On the other hand, learned counsel for the informant and learned Spl. PP for the State opposing the prayer for bail submitted that the appellants have slated the informant in the name of caste and assaulted her and her husband and dismantled her hut, hence they do not deserve bail.

In the facts and circumstances of the case, the above named appellants, in the event of their 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) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Darbhanga in connection with Baheri P.S. Case No. 161 of 2018, 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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