

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.4338 of 2019**

Arising Out of PS. Case No.-39 Year-2019 Thana- SC/ST District- East Champaran

1. Subodh Mahto, Son of Bir Kishun Mahto
  2. Panna Devi, Wife of Subodh Mahto
  3. Subhas Mahto, Son of Bir Kishun Mahto
  4. Vijay Mahto, Son of Bir Kishun Mahto
  5. Sangeeta Devi, Wife of Subhash Mahto
- All Residents of Village - Madhubani, P.S.- Sangrampur, District - East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Umesh Chandra Verma

For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

3      16-12-2019                      Heard learned counsel for the appellants and learned  
Spl. P.P. for the State.

The appellants in the present case are challenging the order dated 29.08.2019 passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran at Motihari in ABP No. 2416 of 2019 arising out of SC/ST Motihari P.S. Case No.39 of 2019 registered for the offences punishable under Sections 341, 323, 324, 379, 447 and 504/34 of the Indian Penal Code and Sections 3(i)(r)(s), w(i) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.



Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in this case. Learned counsel submits that there are general and omnibus allegations against the appellants.

Learned Spl. P.P. for the State is present and has opposed the prayer for bail.

Considering the facts and circumstances of the case wherein it is the submission of learned counsel for the appellants that the appellants' side had lodged a case against the informant's side on 11.04.2019 in which they have alleged that the informant's side had assaulted the appellants' side, the present FIR came to be lodged from the informant's side on 15.04.2019 alleging a different version of the story of the occurrence which took place on 10.04.2019 and further submission that save and except the appellant no.1 Subodh Mahto against whom there is an allegation of giving a spade blow to the informant, there are general and omnibus allegations only against other appellants, there being a case of land dispute, case and counter case, delay in lodging the present FIR and the appellants having no criminal antecedent, the impugned order in so far as it relates to the appellant nos.2 to 5 is hereby set aside.

Let in the event of arrest or surrender of the



appellant nos.2 to 5 within a period of four weeks from today, the appellant nos.2 to 5 be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with SC/ST Motihari P.S. Case No.39 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

So far as appellant no.1 is concerned, his prayer for anticipatory bail is refused. However, in case the appellant no.1 surrenders and prays for regular bail within a period of four weeks from today, his prayer for regular bail shall be considered



by the court below on an independent consideration and on the basis of the materials on record.

This appeal stands disposed of.

**(Rajeev Ranjan Prasad, J)**

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