

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4919 of 2019

Arising Out of PS. Case No.-196 Year-2017 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. MUKESH MAHTO @ MUKESH KUMAR SUMAN Son of Sri Kishandeo Mahto @ Krishnadev Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 2. Sukesh Mahto @ Sukesh Kumar Mahto Son of Sri Kishandeo Mahto @ Krishnadev Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 3. Pappu Mahto @ Anil Kumar Suman Son of Deo Narayan Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 4. Ranjeet Mahto @ Devendra Kumar Son of Ram Chandra Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 5. Mangal Mahto @ Prem Sagar Mahto Son of Gulo Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 6. Ramji Mahto @ Ramji Kumar Son of Fulo Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 7. Ravindra Mahto @ Ravindra Kumar Mahto @ Ravindra Kumar Son of Arun Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.
 8. Rajesh Mahto @ Rajesh Kumar Suman Son of Bindeshwar Mahto Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Siya Ram Chaupal Son of Ghoghar Chaupal Resident of Village - Nakuni, P.S.- Hasanpur, Distt - Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Nilesh Kumar
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 10-12-2019 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

The instant appeal for anticipatory bail has been filed
by the appellants apprehending their arrest in connection with



Complaint Case No. 196 of 2017, registered for the offence punishable under sections 147 and 323 of the Indian Penal Code and section 3(1)(r)(s)(w), 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

As per allegation in the complaint, the complainant along with his family members wanted to reside on their land after constructing their house. It is stated that there is no house on the southern side of their land. The accused persons have been wanting to construct road on the northern side which was opposed by the informant. On the date of occurrence, the accused persons and 5-6 unknown persons variously armed with lathi, danda etc. surrounded the house of the complainant, thereafter they entered into the house and looted various articles. On the complainant and others opposing the accused, they were beaten up and articles worth Rs. 49,000/- was looted. They incurred a loss of Rs. 60,000/-. It is further stated that the accused persons also assaulted and abused them in the name of their caste.

It is submitted by the learned counsel for the appellant that while the occurrence is said to have taken place on 25.10.2017, the complaint was lodged only on 02.11.2017 without any reasonable explanation for the delay. It is stated that



cognizance was taken only on 11.03.2019 and thereafter, process was directed to be issued. It is further stated that occurrence on 25.10.2017 took place in a manner other than what has been narrated in the complaint and for the same an FIR being Hasanpur P.S. Case No. 170 of 2017 was lodged by Devnarayan Mahto, who is the father of petitioner no. 3 herein. In the said FIR, Siyaram Tanti who is the complainant in the Complaint Case No. 196 of 2017 as also his father Ghoghar Tanti besides others were made accused. It was further submitted that subsequently on a petition filed before the authorities for removal of encroachment, an enquiry was got conducted wherein a report has been submitted to the effect that a road which was in use for a long time, the aforesaid Ghoghar Tanti has stopped the free flow of traffic on the said road. It is finally submitted that allegations are general and vague in nature and that the appellants have clean antecedent. The appellant in support of his contentions for grant of anticipatory bail in connection with SC/ST (Prevention of Atrocities) Act relies on the judgment in the case of Khuman Singh Vs. State of Madhya Pradesh reported in AIR 2019 SC 4030.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case



especially the FIR as contained in Annexure-2, the report submitted after inquiry and the judgment referred to above, this Court is inclined to grant bail to the appellants. The appellants are directed to surrender in the court below within a period of six weeks from today and in the event of their arrest or surrender, they shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Samastipur in connection with Complaint Case No. 196 of 2017 subject to the condition as laid down under section 438(2) of the Cr.P.C.

The appeal stands allowed.

(Partha Sarthy, J)

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