

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5435 of 2019

Arising Out of PS. Case No.-33 Year-2018 Thana- SC/ST District- Lakhisarai

1. Awadesh Yadav @ Audesh Yadav S/o Late Thakuri Yadav R/o village- Kumoutha, P.S.- Halsi, District- Lakhisarai. Presently residing at Village- Kushbedia, P.S.- Mihijam, District- Jamtara (Jharkhand)
2. Hira Yadav @ Hari Shankar Yadav S/o Awadesh Yadav @ Audesh Yadav R/o village- Kumoutha, P.S.- Halsi, District- Lakhisarai. Presently residing at Village- Kushbedia, P.S.- Mihijam, District- Jamtara (Jharkhand)
3. Kishori Yadav @ Ram Kishore Yadav S/o Awadesh Yadav @ Audesh Yadav R/o village- Kumoutha, P.S.- Halsi, District- Lakhisarai. Presently residing at Village- Kushbedia, P.S.- Mihijam, District- Jamtara (Jharkhand)

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Rajive Ranjan Singh, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-12-2019 Heard learned counsel for the appellants and learned
Spl.P.P. for the State.

Appellants, in the present appeal, are challenging the order dated 17.10.2019 passed in A.B.P. No. 802 of 2019 arising out of SC & ST Lakhisarai P.S. Case No. 33 of 2018 registered under Sections 341, 323, 504, 354/34 of the Indian Penal Code and Sections 3(i)(r) (s) (g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

By the impugned order the prayer for anticipatory bail of the appellants has been rejected by the learned 1st Additional



District and Sessions Judge-cum-Special Judge (SC & ST Act)
Lakhisarai.

Learned counsel for the appellants submits that the allegations made in the fardbeyan it would appear that there is a land dispute between the parties, according to the appellants the land in question is a purchased land in the name of appellant no. 1 on which the informant is trying to come upon. Learned counsel further submits that the allegation of abuse in the name of caste seems to be a superimposition.

Learned Special P.P. has submitted that it seems to be a case of land dispute.

Considering the facts and circumstances of the case, wherein it is the submission of learned counsel for the appellants that on a bare reading of the allegations made in the fardbeyan it would appear that there is a land dispute between the parties, according to the appellants the land in question is a purchased land in the name of appellant no. 1 on which the informant is trying to come upon and further submission that the allegation of abuse in the name of caste seems to be a superimposition, in the nature of the allegation and materials showing that there is no assault taking place and no injury has been caused to the informant side as also there seems to be a



land dispute in which the present case has been lodged, this Court is inclined to set aside the impugned order. The impugned order dated 17.10.2019 passed in A.B.P. No. 802 of 2019 arising out of SC & ST Lakhisarai P.S. Case No. 33 of 2018 by learned 1st Additional District and Sessions Judge-cum-Special Judge (SC & ST Act) Lakhisarai is hereby set aside. The appeal is allowed.

Let the appellants above named, in the event of their arrest or surrender within a period of four weeks from today be enlarged on bail on furnishing bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge (SC & ST Act), Lakhisarai in connection with SC & ST Lakhisarai P.S. Case No. 33 of 2018, 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.

(Rajeev Ranjan Prasad, J)

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