

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.153 of 2020

Arising Out of PS. Case No.-46 Year-2017 Thana- SC/ST District- Darbhanga

1. NATHUNI YADAV Son of Late Jagrit Yadav Resident of Village - Diwari, P.S.- Sadar, Distt - Darbhanga.
2. Shiri Yadav Son of Late Jagrit Yadav Resident of Village - Diwari, P.S.- Sadar, Distt - Darbhanga.
3. Pratap Yadav Son of Vikau Yadav Resident of Village - Diwari, P.S.- Sadar, Distt - Darbhanga.
4. Binod Yadav Son of Vikau Yadav Resident of Village - Diwari, P.S.- Sadar, Distt - Darbhanga.
5. Pramod Yadav Son of Vikau Yadav Resident of Village - Diwari, P.S.- Sadar, Distt - Darbhanga.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Baidyanath Prasad, Adv.
For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 13-11-2020 Heard learned counsel for the appellants and learned
Spl. P.P. for the State, through video conferencing.

The present appeal has been preferred against the order dated 3.12.2019 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, (POA) Act, 2019, Darbhanga, whereby, the prayer for anticipatory bail of the appellants in connection with Darbhanga SC/ST P.S. Case No. 46 of 2017 registered under sections 147, 323, 504, 506 and 34 of the Indian Penal Code and sections 3(1)(r),3(1)(s) and 3(1)(g)



of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act was rejected.

A complaint was filed which on the direction of the learned Court lead to the FIR being registered. As per the allegation therein it is stated that the accused persons including the appellants herein came on the date and time of occurrence and abusing the informant in the name of his caste, threatened them that he should not make an attempt to erect any construction on the land in front of their land. On protest, it is stated that on the orders of Nathuni Yadav, other accused persons abused and assaulted them with fists and slaps and went away threatening and also abusing them in the name of their caste.

It is submitted by learned counsel for the appellants that the allegations as leveled in the FIR are absolutely false and concocted. It is for this reason that for an occurrence said to have taken place on 18.6.2017, the complaint was filed on 21.6.2017 and further the FIR was registered on 16.8.2017. It is submitted that the appellants have been falsely implicated and the matter relates to land dispute. The land in front of the land of the informant is not a vacant government land but from the survey khatian, brought on record as Annexure-2 to the



petition, it would transpire that the same is in the name of the father of appellants no. 1 and 2. It is further submitted that no offence under the SC/ST Prevention of Atrocities Act is made out as the alleged occurrence, even if accepted for the sake of argument, cannot be said to have taken place in public view which is an essential ingredient. The appellants have no criminal antecedent.

The appeal is opposed by learned Special Public Prosecutor appearing for the State, who referring to the order of the learned Court below, submits that by order dated 10.5.2019 cognizance in the case has been taken against the appellants under various sections of the Indian Penal Code as also under section 3(1)(r)(s) of the SC/ST Prevention of Atrocities Act. Furthering referring to the decisions in the case of **Bachhu Das vs. State of Bihar [(2014)3SCC471]** and in the case of **Bisheshwar Mishra vs. State of Bihar [2016(4)PLJR1059 (DB)]**, it is submitted that cognizance having been taken in the case, the very application for anticipatory bail under the SC and ST (Prevention of Atrocities) Act is not maintainable and, as such, the appeal be rejected.

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



case, I find substance in the submissions made by the learned Spl.P.P. appearing for the State of Bihar. Thus, the instant appeal is rejected.

In the facts and circumstance of the case, in case the appellants surrender within a period of six weeks and pray for regular bail, their application for bail shall be considered without being prejudiced by this order of rejection.

(Partha Sarthy, J)

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