

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4418 of 2019

Arising Out of PS. Case No.-169 Year-2019 Thana- KALYANPUR District- Samastipur

1. Chandra Bhushan Sharma @ Bhushan Sharma Son of Late Jogendra Sharma Resident of Village-Bakhri, P.S.-Kalyanpur, District-Samastipur, Bihar,
2. Lalbabu Sharma Son of Bauajee Sharma Resident of Village-Bakhri, P.S.-Kalyanpur, District-Samastipur, Bihar,
3. Uday Kumar Sharma @ Udgar Sharma Son of Gokhul Sharma Resident of Village-Bakhri, P.S.-Kalyanpur, District-Samastipur, Bihar,

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ugranath Mallik, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 30-09-2020 Heard learned counsel for the appellants and learned
Spl. PP for the State.

The instant appeal has been preferred against the order dated 31.8.2019 passed in ABP no. 2174 of 2019 by the learned 1st Additional Sessions Judge cum Special Judge (SC/ST POA Act), Samastipur, whereby the prayer for bail of the appellants was rejected. The appellants were made accused in Kalyanpur P.S. Case no. 169 of 2019 registered under sections 323, 341, 447, 504 and 34 of the Indian Penal Code and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC & ST Act, 1989.

As per allegation in the FIR, the 7 named accused



persons including the three appellants herein as also one Sheo Kumar Sharma are stated to have come to the house of the informant, caught hold of his neck and assaulted him. It is further stated that on the informant's father-in-law going to his rescue, all the accused persons also assaulted him. It is further stated that on hulla being raised 10-15 persons came and assaulted the informant and others.

It is submitted by learned counsel for the appellants that from perusal of the FIR itself it would transpire that there is land dispute between the parties and the same is the cause for false implication of the appellants herein. It is further submitted that the land dispute between the parties have been going on since long time, the same being the subject matter of Title Suit no. 1470 of 1962 and Title Appeal no. 60 of 1967. It is submitted that the appellants have no criminal antecedent and their case stands on a similar footing to that of co-accused Sheo Kumar Sharma who has been enlarged on bail vide order dated 17.2.2020 passed in Cr. Appeal (SJ) no. 4643 of 2019.

The appeal is opposed by learned Special PP for the State.

Having heard learned counsel for the parties and taking into consideration the history of the land dispute between



the parties, the appellants having no criminal antecedent and grant of bail to co-accused, the Court is inclined to allow the instant appeal. The order dated 31.8.2019 passed in ABP no. 2174 of 2019 by the learned 1st Additional Sessions Judge-cum-Special Judge, SC & ST (POA) Act, Samastipur is set aside. The appellants are directed to surrender in the Court below within a period of eight weeks from today and in the event of their arrest or surrender in connection with Kalyanpur P.S. Case no. 169 of 2019 they will be enlarged on bail on each of them furnishing bail bond of Rs. 10,000/ (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, (SC/ST (POA) Act), Samastipur.

(Partha Sarthy, J)

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