

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.295 of 2020

Arising Out of PS. Case No.-60 Year-2018 Thana- SC/ST BETTIAH District- West Champaran

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1. ANIL RAI @ ANIL KUMAR RAI Son of Late Jagdish Rai Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 2. Sonal Rai Son of Umesh Rai Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 3. Dhananjay Pandey Son of Shree Bhagwat Pandey Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 4. Vikki Pandey Son of Dhananjay Pandey Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 5. Kedar Nishad Son of Mahadev Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 6. Jawahir Nishad @ Jawahar Nishad Son of Bunela Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 7. Rajkumar Nishad Son of Bunela Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 8. Sandeep Nishad Son of Bunela Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 9. Rajan Nishad Son of Bunela Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 10. Jaswant Nishad Son of Kedar Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 11. Baliram Nishad Son of Nand Lal Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 12. Nand Lal Nishad Son of Late Harihar Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 13. Jai Kishan Nishad Son of Late Harihar Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 14. Arun Kumar Rai Son of Fanindra Rai Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 15. Nagendra Nishad Son of Jai Rajan Nishad Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.
 16. Mahadev Nishad Son of Late Doma Nishad. Resident of Village - Takiya, P.S.- Shikarpur, Distt.- West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Adv.
For the Respondent/s : Mrs.Usha Kumari 1, Spl.PP



CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 11-01-2021 Heard the learned counsel for the appellants
and the learned Special P.P. for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 19.12.2019 passed by the learned Additional District and Sessions Judge 1st cum Special Judge, West Champaran at Bettiah in Anticipatory Bail Petition No. 3016 of 2019 in connection with Bettiah SC/ST P.S. Case No. 60 of 2018 registered under Sections 147, 149, 504 of the Indian Penal Code and Section 3(i)(r)(g)(ii)(v-a) of the SC/ST (Prevention of Atrocities) Act, whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been refused.

The allegation is regarding the accused persons including the appellants herein having arrived at the house of the informant, armed with lathi & farsa, had forcibly tried to grab the land of the informant, had stolen household articles and had ploughed the land of the informant by means of



tractor.

The learned counsel for the appellants has submitted that the appellants are innocent and they have been falsely implicated in the present case. The learned counsel for the appellants has submitted that a general and omnibus allegation has been levelled by the informant against the appellants and moreover, there is a huge delay of about 10 days in filing the FIR, apart from the fact that the present case arises out of case and counter case. It is further submitted that the police, upon investigation, had found the case to be untrue and had submitted final form, however, the learned court below has differed and taken cognizance under the provisions of the Indian Penal Code and SC/ST (Prevention of Atrocities) Act. Lastly, it is submitted that a general and omnibus allegation has been levelled against the appellants herein and there is no allegation of the appellants having abused the informant by taking his caste specific name, hence, it is submitted that the provisions of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989 are not



attracted in the present case.

Per contra, Sri Arvind Kumar Singh, the learned counsel appearing for the informant and Ms. Usha Kumari, Special P.P. for the State have vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the appellants and taking into account the fact that the police, upon investigation, had found the case to be untrue and moreover, a general and omnibus allegation has been levelled against the appellants herein, I deem it fit and proper to admit the appellants to the privilege of anticipatory bail.

Accordingly, the appellants, above named, are directed to be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge I cum Special Judge, West Champaran at Bettiah in connection with Bettiah SC/ST P.S. Case No. 60 of 2018, subject to the conditions as



stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 19.12.2019 passed by the learned Additional District and Sessions Judge 1st cum Special Judge, West Champaran at Bettiah in Anticipatory Bail Petition No. 3016 of 2019 in connection with Bettiah SC/ST P.S. Case No. 60 of 2018 is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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