

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.316 of 2020**

Arising Out of PS. Case No.-28 Year-2018 Thana- BANGARA District- Samastipur

1. SRINIWAS MISHRA @ LALBABU
2. Ram Niwas Mishra @ Badal Babu
Both Sons of Harendra Nath Mishra
3. Abhayanand @ Abhay Mishra @ Pongal @ Abhayanand Mishra Son of
Srinivas Mishra @ Lal Babu
All resident of Village - Gauspur Sarsauna, P.S.- N.H. Bangra, District-
Samastipur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raja Ram Mishra, Adv.

For the Respondent/s : Mrs.Usha Kumari No.1, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

3 23-02-2021 Heard both sides.

The appellants filed this appeal under Section 14(A) (2) of the S.C./S.T.(Prevention of Atrocities) Act for grant of anticipatory bail in N.H. Bangra P.S. Case No.28 of 2018 registered under Sections 323, 341, 379, 504, 506 and 34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of S.C./S.T. (POA) Act.

The informant alleged that he being the Ward Member was doing some contractual work but the appellants and others are alleged to have demanded extortion assaulted the informant by naming his caste and snatched Rs.5,000/- from his



possession.

Learned counsel for the appellants submits that informant in his fardbeyan alleged that occurrence took place on 26.02.2018 but he lodged the case only on 23.03.2018 i.e. approximately after one month from the date of occurrence. The reason for delay is given in the fardbeyan itself that informant was seeking resolution of the dispute through Panchayat. It is submitted that in fact N.H. Bangra P.S. Case No.27 of 2018 was registered on 22.03.2018 on behalf of Sri Niwas, one of the appellants as the informant and his family members were digging soil in the field of the appellants and when the appellants objected, the informant and his family members abused and assaulted the appellants and their family members.

Learned Special P.P. opposed the prayer for bail.

Having considered the submissions of both sides and on perusal of the F.I.R., it appears that occurrence took place on 26.02.2018 but the informant of the present case lodged the case only on 23.03.2018. The informant stated that he was seeking resolution of the dispute through Panchayat but the dispute could not be resolved and only then he filed F.I.R. but it appears from perusal of the F.I.R. of N. H. Bangra P.S. Case No.27 of 2018 that the informant of the present case and his family



members were digging soil from the lands of the appellants and for which some altercation took place and there was scuffling. When the appellants lodged the case being N.H. Bangra P.S. Case No.27 of 2018, the informant of the present case also lodged the case being N.H. Bangra P.S. Case No.28 of 2018 under different Sections of the Indian Penal Code and also under Sections 3(1)(r) and 3(1)(s) of the S.C./S.T. Act. Thus, the appellants deserve anticipatory bail.

Taking into consideration the facts aforesaid, let the appellants, above named, in the event of their arrest or surrender within a period of four weeks be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned A.D.J. I-cum-Spl. Judge, S.C./S.T. Act, Samastipur in connection with N.H. Bangra P.S. Case No.28 of 2018(G.R. No.273 of 2018), subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The order dated 18.11.2019 is set aside. The appeal is accordingly allowed.

(Prabhat Kumar Jha, J)

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