

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.676 of 2020**

Arising Out of PS. Case No.-37 Year-2019 Thana- SC/ST District- Gaya

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1. Rakesh Kumar Pathak @ Anjani Pathak, aged about 39 years (Male), Son of Brajesh Pathak, Resident of Village Purushottampur, P.S. Imamganj, District Gaya.
 2. Brajesh Pathak, aged about 66 years (Male), Son of Sri Nand Kishore Pathak, Resident of Village Purushottampur, P.S. Imamganj, District Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Smt. Kaili Devi @ Kaliya Devi, Wife of Jageshar Bhuiyan, Resident of Village Purushottampur, P.S. Imamganj, District Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shivendra Prasad
For the Respondent/s	:	Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

- 3 05-04-2021 Heard the learned counsel for the appellants and Mr. Binay Krishna, the learned Special P.P.

The appellants filed this appeal under Section 14A(2) of the SC/ST Act against the order dated 06.11.2019, passed by the learned Special Judge, SC/ST, Gaya in ABP No.269 of 2019 by which the prayer for grant of anticipatory bail of the appellants has been rejected solely on the ground that the application under Section 438 Cr.P.C. is not maintainable.

The informant filed Complaint Case No.56 of 2018 on 21.07.2018 with regard to the occurrence said to have taken



place on 10.06.2016. The informant alleged that her house is situated on Plot No.205 and 230 of Khata No.20 in village Purushottampur, P.S. Imamganj, District Gaya. The informant further alleged that the appellants forced the informant and his family members to work as bounded labour and when the informant and her family members refused, they having armed with different weapons came on 10.06.2016 and assaulted the informant and other family members.

Learned counsel for the appellants submits that no occurrence as alleged by the informant ever took place. In fact the lands of the appellants are situated in and around the lands of the informant. The informant and her family members have encroached upon the lands. The appellants filed application before the Circle Officer for demarcation of the lands and removal of encroachment. The Circle Officer also got the lands measured and it was found that the informant encroached upon the lands of the appellants that is why the informant lodged the case making false allegation. The occurrence is said to have taken place on 10.06.2016, but the complaint petition was filed only on 21.07.2018, i.e., after more than two years and this fact itself shows the falsity of the allegation made in the complaint petition. It is further submitted that the Investigating Officer



made perfunctory investigation and did not appreciate the facts.

Mr. Binay Krishna, the learned Special P.P., on the other hand, vehemently opposed the prayer for anticipatory bail, but could not address the Court on the point that under what circumstances the case was lodged only after more than two years of the date of occurrence.

Having considered the submissions of both sides and on perusal of the records, I find that the informant herself alleged that the occurrence took place on 10.06.2016, but the complaint petition was filed on 21.07.2018, i.e., after more than two years and one month. There is no explanation to this inordinate delay in lodging the case and this fact itself goes to the root of the case. There appears on the face that there is land dispute between the two sides.

Taking into consideration the facts aforesaid, I find that the appellants deserve anticipatory bail.

Accordingly, appellants, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt of this order, be enlarged on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge SC/ST, Gaya in



connection with SC/ST P.S. Case No.37 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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