

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2009 of 2021

Arising Out of PS. Case No.-756 Year-2019 Thana- MADHAURAH District- Saran

1. SUNIL RAI @ SUNIL RAY, SON OF PARMESHWAR RAI RESIDENT OF VILLAGE- BHULUHI, P.S. MARHOWRAH, DISTRICT-SARAN
2. PRAKASH RAI @ OM PRAKASH YADAV, SON OF SAWARU RAI RESIDENT OF VILLAGE- BHULUHI P.S. MARHOWRAH, DISTRICT-SARAN

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Mukesh Kumar Singh
For the Respondent/s	:	Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 13-08-2021 Heard Mr. Mukesh Kumar Singh, learned Advocate for the appellants and Mr. Binay Krishna, learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 12.02.2021, passed by the learned 1st Additional Sessions Judge / Special Judge SC/ST (POA) Act, Chapra, in A.B.P. No. 435 of 2021, arising out of Marhowrah P. S. Case No. 756 of 2019, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences punishable under



Sections 323, 341, 504, 506 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s) and 3 (2) (ve) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

The accusation in the F.I.R. is of the appellants having abused and assaulted the members of the prosecution party.

The learned counsel for the appellants has submitted that there is a counter version of the occurrence also. In fact, there is a dispute with respect to a plot of land which has been purchased by appellant no. 1 in the name of his mother. There is a rival claim over the said plot of land. Hence, the prosecution.

The accusation under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is highly exaggerated and only for the purposes of preventing the appellants from taking advantage of Section 438 of the Code of Criminal Procedure. No offence under any one of the Sections of Indian Penal



Code or for that matter under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can at all be said to have been made out against the appellants.

For the afore-stated reasons, the order dated 12.02.2021, passed by the learned 1st Additional Sessions Judge / Special Judge SC/ST (POA) Act, Chapra, is set aside.

The appeal stands allowed.

The appellants, above-named, are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge / Special Judge SC/ST (POA) Act, Chapra, in connection with Marhowrah P. S. Case No. 756 of 2019, subject to the conditions as laid



down under Section 438 (2) Cr.P.C.

(Ashutosh Kumar, J)

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