

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2544 of 2021**

Arising Out of PS. Case No.-131 Year-2020 Thana- NAANPUR District- Sitamarhi

1. Rajgir Sah S/o- Late Mushahar Sah
2. Raju Kumar @ Raju Sah, S/o- Rajgir Sah
Both are resident of Village - Bokhara, P.S. - Nanpur, District – Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 20-07-2021 Heard Mr. Ajay Kumar Thakur, the learned

Advocate for the appellants and Mr. Binay Krishna, the

learned Special Public Prosecutor for the State.

The appellants have challenged the order dated

19.03.2021 passed by the learned Addl. District &

Sessions Judge-I-Cum-Special Judge (SC/ST), Sitamarhi

in connection with Nanpur P.S. Case No. 131 of 2020,

instituted for the offences under Sections 341, 323, 354,

504 and 34 of the Indian Penal Code and Section 3(1)(r)

of the S.C./S.T. (Prevention of Atrocities) Act, 1989,

whereby their prayer for grant of anticipatory bail has



been rejected.

It is alleged in the F.I.R. that the husband of the informant and others were assaulted by the appellants and others when she objected them from constructing a house on the disputed plot of land.

The learned counsel for the appellants has submitted that with respect to the same occurrence, the appellant No. 1 has also lodged a case against the informant of the present case vide Nanpur P.S. Case No. 125 of 2020. The police has found the case filed by the appellant No. 1 to be true. Thus, it appears that the present case has been filed only for the purposes of creating a shield against the accusation made by the informant. So far as the overt act of assault is concerned, it is of course attributed to appellant No. 1 but the injury report does not support the ocular testimony. The F.I.R., which is absolutely vague, does not reflect the date and time of the alleged occurrence.

Considering the facts afore-stated, it has been argued that none of the offences under the I.P.C. or



under the S.C./S.T. (Prevention of Atrocities) Act can at all be said to have been made out. The dispute perhaps is over a plot of land over which the parties have been staking their respective claims.

For the facts afore-stated, the order dated 19.03.2021, referred to above, is set-aside.

The appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. District & Sessions Judge-I-Cum-Special Judge (SC/ST), Sitamarhi in connection with Nanpur P.S. Case No. 131 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The appeal stands allowed.

(Ashutosh Kumar, J)

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