

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1857 of 2020

Arising Out of PS. Case No.-36 Year-2019 Thana- COMPLAINT CASE District- Kishanganj

1. GOSUL AZAM @ MD. GOSUL S/o Late Raissuddin Resident of Village-Kadam Gacchi Barai Tola, P.S.-Paharkatta, District-Kishanganj.
2. Afaque S/o Late Raissuddin Resident of Village-Kadam Gacchi Barai Tola, P.S.-Paharkatta, District-Kishanganj.
3. Md. Mahboob Alam S/o Late Raissuddin Resident of Village-Kadam Gacchi Barai Tola, P.S.-Paharkatta, District-Kishanganj.
4. Nikhat Praveen W/o Md. Gosul @ Gosul Azam Resident of Village-Kadam Gacchi Barai Tola, P.S.-Paharkatta, District-Kishanganj.
5. Shanaz Begum W/o Afaque Resident of Village-Kadam Gacchi Barai Tola, P.S.-Paharkatta, District-Kishanganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nimai Bosak S/o Late Abhiram Bosak Resident of-Kadamgacchi Barai Tola, P.S.-Paharkatta, District-Kishanganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Diwakar Sinha
For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 19-02-2021 Heard the parties.

Learned counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks.

The matter relates to grant of anticipatory bail to the appellants in connection with Spl. Case No. 70 of 2019 arising out of Complaint Case No. 36 of 2019 registered for the offences under Sections 323 and 504 of the Indian Penal Code



and Sections 3(i)(r)(s)(x) of the SC/ST (POA) Act.

Allegedly, while the informant along with his son was ploughing his purchased land through tractor for growing paddy crops, all of a sudden, the accused Gausul Azam came and prevent to ploughing the land. It is further alleged that hearing the noise of dispute, the accused persons came with Lathi and Danda. They abused and called him Harijan. The informant was assaulted with fist and slaps by the accused persons.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. From perusal of the complaint case itself, it appears that there is a land dispute between the parties. The matter relates to civil dispute. From perusal of Annexure-2 also, it is apparent that there is property dispute pending between the parties. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellants are named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order



dated 07-02-2020 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST (POA) Act, Kishanganj in Spl. Case No. 70 of 2019 arising out of Complaint Case No. 36 of 2019 is set aside. The present Criminal Appeal is *allowed*.

Accordingly, let the appellants, above named, in the event of arrest or surrender before the learned court below within a period of eight weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST (POA) Act, Kishanganj in connection with Spl. Case No. 70 of 2019 arising out of Complaint Case No. 36 of 2019.

(Sudhir Singh, J)

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