

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5440 of 2019

Arising Out of PS. Case No.-17 Year-2018 Thana- SC/ST District- Darbhanga

1. MD. ZAFRULLAH @ ZAFFO @ MD. ZAFFO Son of Late Kashim Resident of Village - Barna, P.S.- Kusheshwar Asthan, District - Darbhanga (Bihar).
2. Md. Ahmad @ Md Ahmad Hussain Son of Late Kashim Resident of Village - Barna, P.S.- Kusheshwar Asthan, District - Darbhanga (Bihar).
3. Md. Zohar Son of Late Kashim Resident of Village - Barna, P.S.- Kusheshwar Asthan, District - Darbhanga (Bihar).
4. Md. Khalique Abdullah @ Toni @ Md. Toni Son of Late Md. Shamim Resident of Village - Barna, P.S.- Kusheshwar Asthan, District - Darbhanga (Bihar).

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vinay Kumar Mishra
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 09-02-2021 Heard both sides.

The appellants filed this appeal under Section 14 (A) (2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act for grant of anticipatory bail in Darbhanga SC/ST P.S. case No. 17/2018 registered under Section 341, 323, 447, 354, 504, 506/34 of the IPC and u/s 3(1)(r), 3(i)(s), 3(i)(g) of SC/ ST Act.

The informant, in sum and substance, alleged after naming the appellants and others that they all came on her land bearing Khesra No. 1044, 1045 and 1046, Khata No. 597, 579 and 627 and forcefully started constructing their house on the



aforesaid land which was allotted to the informant by issuing Parcha under Bihar Privileged Persons Homestead Tenancy Act.

The learned counsel for the appellants submits that the occurrence is said to have taken place on 06.10.2017 but the informant informed the police only on 12.02.2018. There is no explanation for such delay in giving the information to the police. The information was given after more than four months. It is further submitted that prior to the institution of the case a proceeding u/s 144 of the Cr. P. C. was initiated between the parties with regard to plot Nos. 1044, 1045 and 1046 vide Misc. Case No. 611/2017 and the Sub divisional Officer, Biraul came to the finding that it is a case of title dispute. The appellants are in possession of the land and due to inadvertence plots Nos. are wrongly mentioned in the Parcha issued in favour of informant and her family members.

The learned Spl. P.P., however, opposed the prayer for anticipatory bail of the appellants.

Having considered the submissions of both sides, it appears that the dispute is purely a land dispute between two sides. The informant earlier filed petition before the Additional Collector for possession of the land but the same was dismissed. A proceeding u/s 144 of the Cr.P.C. was also initiated at the



instance of Shankar Ram and others including Lalo Ram, husband of the informant. The Sub divisional Officer found the appellants in possession of the land and, accordingly, dropped the proceeding holding that the dispute is with regard to title of the land.

Taking into consideration the facts aforesaid, I find that the appellants deserve anticipatory bail. Accordingly, the appellants, above named, in the event of their arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this order are directed to be enlarged on bail on their furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Darbhanga in connection with Darbhanga SC/ST P.S. case No. 17/2018, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Accordingly, this appeal is allowed.

BKS/-

(Prabhat Kumar Jha, J)

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