

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5615 of 2019**

Arising Out of PS. Case No.-34 Year-2018 Thana- SC/ST District- Saran

1. SHIV KUMAR RAI Son of Late Gopal Rai Resident of Village - Masoomganj, P.S.- Bhagwan Bazar, Distt.- Saran at Chapra.
2. Jitendra Rai @ Jitendra Kumar Rai Son of Late Gopal Rai Resident of Village - Masoomganj, P.S.- Bhagwan Bazar, Distt.- Saran at Chapra.
3. Upendra Rai Son of Late Gopal Rai Resident of Village - Masoomganj, P.S.- Bhagwan Bazar, Distt.- Saran at Chapra.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dewendra Narayan Singh
For the Respondent/s : Mr.Usha Kumari I

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

4 15-12-2021 Heard learned counsel for the appellants and
learned Special Public Prosecutor for the State.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 22.11.2019, passed by learned Additional District and Sessions Judge-1st, Saran at Chapra, in connection with Saran SC/ST P.S. Case No.34 of 2018, registered under sections 341, 323, 504, 506 of the IPC and sections 3(i)(r), 3(i)(g), 3(2)va of the



SC and ST (POA) Act.

The allegation against the appellants is that they have abused the informant and on objection, they started the informant getting ousted by pulling.

It is submitted by learned counsel for the appellants that the appellants are innocent and have not committed any offence. No such occurrence as alleged ever took place. Appellants have been falsely implicated in the case with oblique motive. There is an admitted land dispute between the parties. The land in question bearing Khata no.971 and Survey No.1164 was purchased by appellants' father vide registered sale deed dated 19.09.1985 from one Shukdeo Tatwa and since then the appellants are having the right, title and possession over the same. From perusal of the rent receipt of the land bearing its Khata no.971 and Survey Nos.1073, 1164 and 1165, it is evident that still the rent of land is being paid on behalf of the appellants' father. One Shatrughan Prasad, the family member of the informant with respect to the land in which the FIR, the informant claimed to be his own land filed Case No.1063 of 2018, for initiation of proceedings under section 144 of the Cr.P.C. in the court of learned Sub-Divisional



Magistrate, Sadar, Chapra proceedings of which has been dropped vide order dated 30.11.2018. Appellants have also enclosed the sale deed at annexure-2 and rent receipt at annexure-3. Appellants has no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for anticipatory bail.

Since, there is a land dispute between the parties, no SC/ST Act is applicable against the appellants in view of the judgment as reported in *(2020) 10 SCC 710* in the case of *Hitesh Verma Vs. State of Uttarakhand & Anr.*, hence, it is not required to issue notice to the informant.

Considering the facts and circumstances of the case, the appellants named above, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, are directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-1st, Saran at Chapra, in connection with Saran SC/ST P.S. Case No.34 of 2018, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and



this appeal is allowed.

(Anjani Kumar Sharan, J)

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