

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5665 of 2019**

Arising Out of PS. Case No.-40 Year-2018 Thana- SC/ST District- Banka

1. DILIP SAH Son of Lukhar Sah Resident of Village and P.S.- Amarpur, Distt - Banka.
2. Shankar Sah @ Shankar Sah @ Laheri Son of Bishwanath Sah @ Bishwanath Laheri Resident of Village - Purahdaha, P.S.- Dhamdaha, Distt - Purnea.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Diwakar Prasad Karn
For the Respondent/s	:	Mr.Sadanand Paswan

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

2 16-12-2021 **Re:- I.A. No.1 of 2019**

This interlocutory application has been filed for condoning the delay of 140 days in filing of this appeal.

Considering, the grounds taken in the interlocutory application, the delay in filing of this appeal is hereby condoned.

Accordingly, I.A. No.1/2019 is hereby allowed and disposed of.

Re:- Cr. Appeal (SJ) No.5665 of 2019

Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

This is an appeal under section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act



(hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 25.05.2019, passed by learned Additional Sessions Judge-I, Banka, in connection with Banka SC/ST P.S. Case No.40 of 2018, registered under sections 147, 323, 341, 452, 354, 354(B), 327, 504, 506 of the IPC and sections 3(iii) (iv) (v) (vii) (x) (xi) (xiv) (x) of the SC/ST Act.

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 has ever taken place. Appellants have been falsely implicated in the case due to previous land dispute between the parties. There is general and omnibus allegation against the appellants. There is case and counter-case between the parties. Earlier the wife of co-accused Madan Sah has lodged an FIR bearing Amarpur P.S. Case No.409 of 2018 on 27.07.2018, thereafter, the informant filed a complaint before the court below on 28.11.2018 stating therein that on 15.09.2018, the appellants and others came into the house of the informant and assaulted her. It is submitted that there is inordinate delay of two months in lodging the complaint, which itself creates doubt about the prosecution case. The land dispute is also mentioned in the complaint petition itself. It is submitted



that no case under the SC/ST Act is made out against the appellant as there is land dispute between the parties. Appellants have no criminal antecedent.

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

Since, no SC/ST Act is applicable against the appellants as there is land dispute between the parties, 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, is 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 Sessions Judge-I, Banka, in connection with Banka SC/ST P.S. Case No.40 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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