

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3003 of 2021

Arising Out of PS. Case No.-567 Year-2020 Thana- SUGAULI District- East Champaran

1. MD. FIROZ ALAM S/O ABDULLAH ALAM R/o village- Sugauli Gaon, P.S.- Sugauli, District- East Champaran
2. Md. Zabed @ Tunna Alam @ Tunnu Alam S/o Abdullah Alam R/o village- Sugauli Gaon, P.S.- Sugauli, District- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Kumar Paswan Son of Achchelal Paswan R/o Bhawanipur, North Chapra Bahas, Ward no-7, P.S.- Sugauli Dist- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pramod Kumar Pandey, Adv.

For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 13-10-2022 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

Vide order dated 09.05.2022, notice was directed to be issued upon respondent no.2 and accordingly it was sent through both modes but as per process server report, respondent no.2 has taken the notice but refused to put his signature on the report.

Accordingly, notice upon respondent no.2 is treated to be validly served but nobody appears on his behalf.

This is an appeal under section 14(A) (2) of the Scheduled Castes and Scheduled Tribes (Amendment) Act, 2015 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated



10.06.2021, passed by learned 1st Additional Sessions Judge-cum- Spl. Judge, SC/ST (POA) Act, East Champaran at Motihari, in connection with Sugauli P.S. Case No.567 of 2020, registered under sections 447, 341, 323, 324, 384, 379, 504, 506 of the IPC and sections 3(i)(r)(s) of the SC/ST Act.

Allegedly, the F.I.R. named accused persons including the appellants armed variously arrived to land of informant and started to demolish the hut and when the informant prohibited to do so, they abused him by taking caste name and asked for rangdari. It is further alleged that appellant no.1 assaulted the informant by means of farsa and also assaulted Rajendra Hazra.

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 with frivolous allegation. There is an admitted land dispute between the parties for which a Title suit is going on between them and relying upon the judgment of the Apex Court in the case of **Hitesh Verma vs. State of Uttarakhand & Anr.** reported in **2020 (10) SCC 710**, it is submitted that if there is a land dispute between the parties, the appeal for anticipatory bail is maintainable. It is further submitted that no offence under the SC/ST Act is made out



against the appellants as the occurrence is not said to have taken place in the public view. Appellant no.1 has two criminal antecedent and appellant no.2 has no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for anticipatory bail by submitting that there is allegation against the appellants to abuse the informant by taking caste name.

Considering the facts and circumstances of the case, since there is land dispute between the parties, 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 1st A.D.J.-cum- Spl. Judge, SC/ST (POA) Act, East Champaran at Motihari, in connection with Sugauli P.S. Case No.567 of 2020, 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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