

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2417 of 2022

Arising Out of PS. Case No.-46 Year-2022 Thana- MAHESI District- East Champaran

1. DHIRAJ RAI @ DHIRAJ KUMAR S/o- Dhanai Rai Resident of Village - Bishambharpur, P.S.- Mehsi, District - East Champaran.
2. Kanti Devi W/o- Dhanai Rai Resident of Village - Bishambharpur, P.S.- Mehsi, District - East Champaran.
3. Dhuri Rai S/o- Khelawan Rai Resident of Village - Bishambharpur, P.S.- Mehsi, District - East Champaran.
4. Bhola Sah S/o- Shivnath Rai Resident of Village - Bishambharpur, P.S.- Mehsi, District - East Champaran.
5. Sunil Sah S/o- Bhola Sah Resident of Village - Bishambharpur, P.S.- Mehsi, District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Jagdish Paswan S/o- Late Firangi Paswan Resident of Village - Bishambharpur, P.S.- Mehsi, District - East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjay Kumar, Advocate
For the Respondent/s : Ms.Usha Kumari 1, Spl.PP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-09-2022 Heard learned counsel for the appellants and learned
Spl. P.P. for the State.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for **anticipatory bail** vide order dated 13.05.2022 in A.B.P. No. 1428 of 2022 passed by the learned Special Judge, S.C./S.T. (POA) Act, East



Champaran, Motihari in connection with Mehsi P.S. Case No. 46 of 2022 registered for the offences punishable under Sections 147, 149, 341, 323, 324, 354, 379, 386, 504 and 506 of the Indian Penal Code as well as Sections 3(i)(r)(s) and 2(va) of the SC/ST Act.

Learned counsel for the appellants submits that appellant no.1 has antecedent of 1 case, appellant no.2, 4 and 5 have antecedent of two cases and appellant no.3 is a person with clean antecedent and the informant alleges that he has certain ancestral land, part of which was acquired by the government after paying compensation and he is in possession of the rest portion of the land, it is next alleged that Kanti Devi is trying to usurp his property fraudulently, further it is alleged that Kanti Devi also filed an appeal which was dismissed by the D.C.L.R. with respect to the land, thereafter on 27.02.2022 when the informant was on his land, the accused persons, including the appellants, came and abused by taking caste name and also demanded extortion of Rs. 5 lakhs. It is next alleged that when the informant objected, Santosh and Dhuri tried to strangle him with a towel, Dheeraj assaulted by sword causing injury on his right leg, thereafter all the accused assaulted and when Rambha Devi came to save him, she was also assaulted by



Sunil, Nitesh, Dinesh and Bhola and Kanti Devi snatched her golden chain, it is also alleged that Neeraj assaulted Rambha by sharp-edged weapon causing injury between eyes and ears.

Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted that admittedly on account of a land dispute, the present occurrence has taken place, it is also submitted that even presuming what has been alleged is true, without admitting, then the entire occurrence has taken place in the field of informant and the FIR does not even remotely suggest that the occurrence was seen by any villagers or local people. Learned counsel next submits that the allegation of assault causing injury by sword is on Dheeraj of causing injury on the right leg and on Neeraj, allegation is of assaulting Rambha causing injury between eyes and ears. It is next submitted that as far as allegation of abusing the informant by taking caste name is alleged, the same is ornamental in nature and definitely the same is not in public view and as far as allegation of assault is alleged, the nature of injury is simple as would be evident from Annexure-4 series to the application.

Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellants.



In view of the submissions made by the learned counsel for the appellants, the order dated 13.05.2022 in A.B.P. No. 1428 of 2022 passed by the learned Special Judge, S.C./S.T. (POA) Act, East Champaran, Motihari in connection with Mehsi P.S. Case No. 46 of 2022 is hereby set aside and the appellants above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Mehsi P.S. Case No. 46 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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