

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.482 of 2021

Arising Out of PS. Case No.-210 Year-2020 Thana- JOGAPATTI District- West Champaran

1. SUDAMA MAHTO Son of Late Baidyanath Mahto Resident of Village - Nawgawan, P.S.- Jogapatti, District - West Champaran.
2. Bindu Mahto @ Mahesh Kumar Son of Sri Suresh Mahto Resident of Village - Nawgawan, P.S.- Jogapatti, District - West Champaran.
3. Rambali Matho Son of Sri Sudama Mahto Resident of Village - Nawgawan, P.S.- Jogapatti, District - West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ajay Sharma Mithai Sharma Village-Koorgawan,P.S-Jogapatti,District-West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Umesh Chandra Verma
For the Respondent/s : Mrs.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 10-03-2022 Heard learned counsel for the appellants and learned Spl.P.P. for the State. Though vakalatnama has been filed on behalf of the respondent no.2, in view of the earlier order of this Court but today when the case is called out, nobody appears for respondent no.2.

This is an appeal under section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (As amended by Amendment Act, 2015 (Act No.1 of 2016) (hereinafter, in short referred to as the ‘SC/ST Act’) against the refusal of prayer for anticipatory bail vide order



dated 29.08.2020, passed by learned 1st Additional Sessions Judge-cum-Special Judge, under SC/ST Act, West Champaran, Bettiah, in connection with Jogapatti P.S. Case No.210 of 2020, registered u/s 341, 323, 324, 307, 447, 384, 504, 506/34 of the IPC and sections 3 (1)(g)(r) of the SC/ST (POA) Act.

The prosecution case in short is that on 29.05.2020, all the FIR named accused persons including the appellant were constructing hut on the purchased land of the informant and on objection raised by the informant, they armed variously, started abusing and committed assault with him. They were demanding extortion money for acquiring the land. The other co-partners intervened and saved the informant.

It is submitted by learned counsel for the appellants that the appellants are quite 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 ulterior motive. There is general and omnibus allegation against the appellants. There is an admitted land dispute between the parties, for which Partition Suit No.200/1998 was decreed on 15.04.2019 declaring 4/9 share of the appellant no.1 in the suit land, and no appeal was preferred by either of the parties. The appellant no.1 has filed Final Decree Case



No.06/2000 in the court of learned Sub-Judge, Bettiah, in which the informant and other purchasers have filed three set of petitions under Order 1 Rule 10 C.P.C. Learned counsel for the appellants further submits that there is no injury report to substantiate the allegations of assault. Since there is admitted land dispute between the parties, hence no offence under SC/ST Act is made out against the appellants. Appellants have no criminal antecedent, as also mentioned in para-3 of the memo of appeal.

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

In the facts and circumstances of the case, since there is land dispute between the parties and no specific allegation is levelled upon the appellants, as such, 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 Additional Sessions Judge-cum-Special Judge, SC/ST Act, West Champaran, Bettiah, in connection with Jogapatti P.S. Case No.210 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 the appeal is allowed.

(Anjani Kumar Sharan, J)

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