

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4059 of 2021

Arising Out of PS. Case No.-1093 Year-2018 Thana- COMPLAINT CASE District- Araria

1. AFZAL Son of Nooruddin Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
2. Naim Son of Nooruddin Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
3. Master Masood @ Mater Masood Alam Son of Late Fasiurahman Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
4. Master Wadood @ Master Abdul Wadood Son of Late Fasiurahman Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
5. Master Mahmood Son of Wasiurahman Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
6. Mannan @ Abdul Mannan Son of Late Tashim Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
7. Hakim Son of Late Tashlim Resident of Village - Sonapur, P.S.- Simraha, District - Araria.
8. Afaque @ Afak Son of Belal Resident of Village - Sonapur, P.S.- Simraha, District - Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Moti Das Manglu Das R/O Mohalla-Omnagar, Ward No.-8, P.S. and District-Araria

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mukesh Kumar Rana
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

4 27-09-2022 Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the appellants and the learned counsel for the informant.

This appeal has been preferred on behalf of the appellants under Section 14-A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 15.04.2021 in



connection with Special SC/ST Case No. 180 of 2018/Complaint Case No. 1093-C of 2018 registered for the offences punishable under Sections 147, 148, 149, 323, 341 and 379 of the Indian Penal Code and Sections 3(i) (r)/3(i)(s)/3(2) (va) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

The FIR has been registered on the basis of complaint petition filed by the complainant Moti Das, who made allegation that the disputed land was entered in the name of his mother. The accused persons were constructing a house over the said land. When the informant prohibited, the accused persons assaulted and abused him by calling his caste name and also snatched Rs. 2000/- from his possession.

Learned counsel for the appellants has submitted that during investigation, the case was not found true and the investigating authority submitted the final form. The learned Magistrate accepted the final form and the case was proceeded on the basis of protest petition. He has submitted further that there is admittedly the land dispute between the parties and the appellants are the persons of clean antecedents.

On the other hand, learned counsel for the informant as well as learned Special P.P. for the State have submitted that



cognizance on the basis of protest petition has been taken, as such, the anticipatory bail petition is not maintainable.

Considering the facts and circumstances, the appellants are directed to surrender in the court below and make a prayer for regular bail which shall be disposed of by the court below on its own merit on the same day, without being prejudiced by this order. The learned court below may take notice of the fact that the appellants are the persons of clean antecedent. There is land dispute between the parties and initially the final form was accepted, but the case proceeded on the basis of protest petition.

With these observations, the appeal stands disposed of.

Office shall ensure that all the defects are removed by the appellants within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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