

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4442 of 2021

In
CRIMINAL MISCELLANEOUS No.19561 of 2021

Arising Out of PS. Case No.-181 Year-2020 Thana- MAHISHI District- Saharsa

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1. ASHOK SAH S/o Late Ram Gulam Sah Resident of Village - Mahisarho, P.S. - Mahishi, Dist. - Saharsa.
 2. Murlidhar Sah S/o Late Ram Gulam Sah Resident of Village - Mahisarho, P.S. - Mahishi, Dist. - Saharsa.
 3. Asharfi Sah S/o Late Sajjan Sah Resident of Village - Mahisarho, P.S. - Mahishi, Dist. - Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dharendra Paswan son of Sri Ramchandra Paswan resident of village-Baluaha, Ward No.- 13, P.S.- Mahishi, District- Saharsa

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Awadhesh Kumar Mishra Mr.Shivpujan Sahay Mr.Ajay Kumar
For the Respondent/s	:	Mrs.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 31-03-2022 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State. Though, in compliance of the court's order dated 13.01.2022, notice was issued upon the respondent no.2 and has been served validly, as per office notes but today when the case is called out, nobody appears on behalf of the respondent no.2. As such, the appeal is being heard in absence of counsel for the respondent no.2.

This is an appeal under section 14(A) (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 13.01.2021, passed by learned Additional Sessions Judge -III-cum- Special Judge, SC/ST (POA) Act, Saharasa, in connection with Spl. Case No.126/2020, arising out of Mahishi P.S. Case No.181/2020, registered under sections 147, 148, 149, 341, 323, 307, 354A, 324, 379, 504, 506 of the IPC, section 27 of the Arms Act and sections 3(1)(r)(s) of the SC/ST Act.

Allegedly, on the alleged date of occurrence, when the informant's father was making hedge of the field, all the accused persons including the appellants came there with deadly weapons and abused him by taking caste name and asked for extortion money for making the hedge. On protest, they started assaulting the father of the informant and when the informant as well as his mother came for rescue, they were also assaulted by the accused persons.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in the case due to local village politics. The allegation levelled against the appellants is not specific rather general and omnibus in nature. There is a land dispute between the parties and in the alleged occurrence, both sides



have sustained injuries. There is case and counter-case between the parties. The appellants have no criminal antecedent and have been languishing in custody since 22.11.2020.

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

In the facts and circumstance of the case, since both sides have sustained injuries, the above named appellants 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 Additional Sessions Judge -III-cum- Special Judge, SC/ST (POA) Act, Saharasa, in connection with Spl. Case No.126/2020, arising out of Mahishi P.S. Case No.181/2020.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

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