

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4078 of 2019

Arising Out of PS. Case No.-59 Year-2018 Thana- SC/ST BETTIAH District- West
Champaran

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1. SURESH MALI @ SURESH BHAGAT Son of Jugul Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 2. Manohar Mali @ Manohar Kumar Son of Suresh Mali @ Suresh Bhagat Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 3. Abhinandan Mali @ Abhinandan Kumar Son of Suresh Mali @ Suresh Bhagat Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 4. Upendra Mali @ Upendra Kumar Son of Brij Kishore Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 5. Bechu Mali Son of Late Pashpat Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 6. Subhash Mali @ Subhash Bhagat Son of Addha Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 7. Bipin Mali @ Bipin Bhagat Son of Addha Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 8. Rajkumar Mali @ Rajkumar Bhagat Son of Addha Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 9. Ramchandra Mali Son of Late Sheonath Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran
 10. Kismat Mali @ Kismat Kumar Son of Ramchandra Mali Resident of Village - Pakdi Vishaili, P.S.- Gaunaha, District - West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajkeshwar Baitha Late Bhikkan Baitha R/O-Balua,P.S-Gaunaha,District-West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Md. Anis Akhtar
For the Respondent/s : Mrs.Usha Kumari

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 05-04-2022 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.



Vide order dated 29.11.2021, notice was issued to respondent No.2 but, in spite of valid service of notice, there is no representation on his behalf.

This is an appeal under section 14A (2) of the Scheduled Castes and Scheduled Tribes Act (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 31.07.2019, passed by learned 1st Additional Sessions Judge-cum- Spl. Judge, (SC/ST/POCSO) Bettiah, West Champaran, in connection with Bettiah Sadar SC/ST P.S. Case No.59 of 2018, registered under sections 341, 323, 324, 379, 504/34 of the IPC and sections 3 (i) (r) (ii) (va) of the SC/ST Act.

Allegedly, all the accused persons armed variously entered into the house of informant and started abusing him. Thereafter the accused persons assaulted the informant and his family members.

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 ever taken place. Appellants have been falsely implicated in the case with frivolous allegation. There is case and counter-case between the parties. It is submitted that no offence under the SC/ST Act is made out



against the appellants as the occurrence has not taken place in the public view. After investigation, the police has filed final form against the appellants, thereafter the court below after going through the case diary, has taken cognizance against the appellants. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for anticipatory bail by submitting that cognizance has been taken by the learned court below, therefore, the anticipatory bail application is not maintainable, in view of the judgment of the Apex Court in *Bachu Das vs. State of Bihar and Others*, as reported in *(2014) 3 SCC 471*.

Considering the facts and circumstances of the case, in view of *Bachu Das (supra)* judgment, this appeal is not maintainable.

Accordingly, the instant appeal is dismissed.

(Anjani Kumar Sharan, J)

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