

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4154 of 2019

Arising Out of PS. Case No.-208 Year-2017 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. BABLU RAI @ TARKESHWAR KUMAR RAI Son of Ram Ekbal Rai @ Ramekabala Rai Resident of Village- Madhupuria Dhamoun, P.S.- Patory, District- Samastipur.
 2. Birju Rai @ Braj Kishore Rai Son of Ram Ekbal Rai @ Ramekabala Rai Resident of Village- Madhupuria Dhamoun, P.S.- Patory, District- Samastipur.
 3. Ram Ekbal Rai @ Ramekabala Rai Son of Late Jagarnath Rai Resident of Village- Madhupuria Dhamoun, P.S.- Patory, District- Samastipur.
 4. Amresh Rai Son of Awadh Kishore Rai @ Mahanth Awadh Kishore Das @ Mahanth Resident of Village- Dih Mohanpur (Madhopur), P.S.- Patory, District- Samastipur.
 5. Awadh Kishore Rai @ Mahanth @ Mahanth Awadh Kishore Das Son of Chela Late Mahanth Mathura Das Resident of Village- Kabir Math Gadhi Mohanpur, P.S.- Patory, District- Samastipur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Urmila Devi Wife of Ramashish Paswan Resident of Village- Madhopur, P.S.- Patory O.P. Mohanpur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Jitendra Narain Sinha
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 22-03-2022 Vide order dated 15.11.2021, notice was directed to be issued upon respondent no.2 and as per office notes dated 18.02.2022, notice has been validly served upon respondent no.2 but nobody has entered appearance on behalf of the respondent no.2. However, learned counsel for the appellants and learned Spl.P.P. for the State is present.



This is an appeal under section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (hereinafter, in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 27.05.2019, passed by learned 1st Additional Sessions Judge, Samastipur, in connection with Complaint Case No.208 of 2017 (T.R. No.958 of 2019), registered u/s 323, 354, 379 of the IPC, section 27 of the Arms Act and sections 3 (r)(s) (w)(va) of the SC & ST (POA) Act.

Allegedly, the appellants herein, on the alleged date of occurrence, on account of land dispute, armed with deadly weapons came to the field of complainant and started abusing her. On protest, they again abused and assaulted her by fists and slaps and drove her out of the field. It is alleged that nearby people tried to apprehend the accused persons but appellant no.1 started firing by pistol in his hand.

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 previous enmity. There is general and omnibus allegation against the appellants and no specific overt act is levelled upon



them. There is an admitted land dispute between the parties with regard to a land, for which '*parcha*' was issued in favour of grandfather-in-law of the complainant and 37 others but later on the same was cancelled by an order dated 15.12.2008, passed in CWJC No.13232 of 1992. The land in question has been inherited by appellant no.5, as such, the appellants have been implicated in this case. It is further submitted that no offence under the SC/ST Act is made out against the appellants as there is no specific allegation against them of abusing the informant. Appellant nos.2, 3 and 4 have no criminal antecedent, appellant no.1 has one criminal antecedent and appellant no.5 has three criminal antecedents.

Learned Spl. PP for the State opposed the prayer for anticipatory bail by submitting that this anticipatory bail application is not maintainable, as cognizance has been taken against the appellants.

Learned counsel for the appellants, on the other hand, relying upon the judgment of the Apex Court in the case of *Hitesh Verma vs. State of Uttarakhand & Anr.* as reported in *(2020) 10 SCC 710*, submits that when there is a land dispute between the parties, the appeal for anticipatory bail is maintainable.



In the facts and circumstances of the case, since there is no specific allegation against the appellants, 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 like amount each to the satisfaction of the learned learned 1st Additional Sessions Judge, Samastipur, in connection with Complaint Case No.208 of 2017 (T.R. No.958 of 2019), 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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