

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4927 of 2019

Arising Out of PS. Case No.-17 Year-2016 Thana- SIKTI District- Araria

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1. SHIV CHARAN RAY Son of Late Kurchu Ray Resident of Village-Kuwapokhar, P.S- Sikty, District- Araria.
 2. Yugesh Ray Son of Late Kurchu Ray Resident of Village-Kuwapokhar, P.S- Sikty, District-Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Vikash Kumar Paswan Late Rameshwar Paswan Resident of- Khuthara, P.S.- Sikty, District- Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ramesh Kumar Singh, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.P.P.
		Mr.Madhav Jha, Adv.
		Mr.Kanchan Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 27-01-2022 Heard the parties through virtual Court proceedings

This is an appeal under section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (hereinafter in short referred to as the ‘SC/ST Act’) against the refusal of prayer for anticipatory bail vide order dated 03.10.2019, passed by learned 1st Additional Sessions Judge-cum-Special Judge, Araria, in connection with Sikty P.S. Case No.17 of 2016, corresponding to Spl. (SC/ST) Case No.253 of 2018, registered under sections 341, 323, 379/34 of the Indian Penal Code and sections 3(i)(x) of SC & ST (POA) Act.



The crux of the prosecution case is that due to an admitted land dispute, the accused persons including the appellants have abused the complainant/informant by taking caste name and assaulted him.

It is submitted by learned counsel for the appellants that the appellants are innocent and have not committed any offence. No such occurrence, in the manner as alleged has ever taken place. Appellants have been falsely implicated in this case due to ulterior motive and grudge. No offence under the SC/ST Act is made out against the appellants as there is an admitted land dispute between the parties and the allegation of slating and assaulting the informant levelled against the appellants is not specific rather general and omnibus in nature. Appellants have no criminal antecedent, as also mentioned in para-3 of the memo of appeal.

Learned Spl. PP for the State as well as learned counsel for the respondent no.2 opposed the prayer for anticipatory bail by submitting that cognizance has been taken by the learned court below, therefore, anticipatory bail is not maintainable.

Considering the facts and circumstances of the case and on perusal of the materials available on record including the impugned order, it is undisputed fact that there is a land dispute



between the parties and in view of the judgment of the Apex Court in the case of *Hitesh Verma Vs. State of Uttarakhand & Anr.* reported in *(2020) 10 SCC 710*, when there is land dispute between the parties, prima facie no offence under SC/ST Act is made out against the appellants and they are entitled for grant of anticipatory bail, as such, I am inclined to enlarge the appellants herein on anticipatory bail.

Accordingly, 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, Araria, in connection with Sikty P.S. Case No.17 of 2016, corresponding to Spl. (SC/ST) Case No.253 of 2018, subject to the conditions as laid down under section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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