

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5341 of 2019

Arising Out of PS. Case No.-21 Year-2019 Thana- RAGHOPUR District- Vaishali

1. JITENDRA KUMAR @ JITENDRA RAI Son of Late Motilal Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
2. Sudhir Rai Son of Siya Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
3. Shivnath Rai @ Shiva Rai @ Sihv Rai Son of Sattan Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
4. Ganaour Rai Son of Harinand Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
5. Shambhu Rai Son of Ganour Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
6. Sunil Rai Son of Bindeshwar Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
7. Bhullu Rai @ Bhulla Rai Son of Sattan Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
8. Sitaram Rai Son of Bahadur Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
9. Aala Rai Son of Nanda Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
10. Anil Rai Son of Bindeshwar Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
11. Vidya Sagar Rai @ Vidyanand Rai Son of Late Gulchand Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
12. Panchu Rai @ Pachu Rai Son of Siya Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
13. Ram Babu Rai Son of Pokhan Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
14. Bhagwan Rai @ Bhagwanlal Rai Son of Bahadur Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.
15. Kisun Rai Son of Baran Rai Resident of Village - Mallikpur, P.S.- Raghapur, Distt - Vaishali.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Anish Chandra, Adv.
For the Respondent/s	:	Mr.Binay Krishna, Spl.P.P.



CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

7 27-01-2022 Heard the parties through virtual Court proceedings.

Learned counsel for the appellants seeks permission to withdraw the prayer for anticipatory bail of the appellant nos.1 to 13 and 15.

Permission is granted.

Accordingly, the prayer for anticipatory bail made through the instant appeal, on behalf of the appellant nos.1 to 13 and 15 is dismissed as withdrawn.

Now, the present appeal is being heard on behalf of the appellant no.14 namely Bhagwan Rai @ Bhagwanlal Rai only.

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 anticipatory bail vide order dated 28.08.2019, passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Vaishali at Hajipur, in connection with Raghapur P.S. Case No.21 of 2019, registered under sections 341, 147, 447, 323, 337, 307, 504, 506, 379, 34 of the IPC and sections 3(i)(r)(s) of the SC/ST (POA) Act.

The prosecution case in short is that due to a land dispute, the accused persons armed variously came to the house of



informant and started assaulting and abusing the informant's side. Thereafter, 25 other named accused persons and 500 unknown persons came there and surrounded the informant's house and assaulted by means of stones and bricks with an intention to kill, due to which several persons from the informant's side got badly injured.

It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any offence. No such occurrence as alleged ever taken place. Appellant has been falsely implicated in the case with frivolous allegation. It is submitted that no offence under the SC/ST Act is made out against the appellant as the occurrence has taken place due to an admitted land dispute between the parties. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. Slating the informant's side in the name of caste is said to have been made at the house of the informant and not in public view, hence also, no offence under the SC/ST Act is made out against the appellant. Appellant has no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for anticipatory bail but has not disputed the fact that there is a land dispute between the parties.



Considering the submissions of the parties and on perusal of the materials available on record, I find that 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 occurrence has not taken place in public view. Hence, there is no requirement of issuing notice to the informant.

Under the aforesaid facts and circumstances, the appellant no.14 namely Bhagwan Rai @ Bhagwanlal Rai, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Vaishali at Hajipur, in connection with Raghapur P.S. Case No.21 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 this appeal is partly allowed.

(Anjani Kumar Sharan, J)

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