

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.340 of 2023

Arising Out of PS. Case No.-120 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. MOHAN SAH Son of Late Gulab Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.
 2. Ram Jyoti Devi Wife of Pramod Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.
 3. Mahendra Sah Son of Sudama Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.
 4. Harendra Sah Son of Sudama Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.
 5. Sudama Sah Son of Late Gulab Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.
 6. Tunmun Sah @ Tuntun Sah Son of Sudama Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.
 7. Naresh Sah Son of Sudama Sah Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Most. Mayakashi Devi Wife of Late Amar Baitha Resident of Village - Nawada, Machhargawan, P.S.- Kotwa, District - East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Dhurendra Kumar, Adv.
For the Respondent/s	:	Mrs.Usha Kumari 1, Spl.P.P. Mr.Pramod Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 21-06-2023 Heard learned counsel for the appellants, learned counsel
for the respondent no.2 and learned Spl.P.P. for the State.

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 30.11.2022,



passed by learned Special Judge, SC/ST Act, East Champaran, Motihari, in connection with Complaint Case No.C-120/21, Trial No.39/2022, registered u/s 323 of the IPC and section 3(1) (r) (s) of the SC/ST Act.

As per the F.I.R., the named accused persons including the appellants started to make hut on the path of the complainant's house and on protest, they assaulted her by taking her caste name and assaulted her. They also demanded Rs.Two Lakhs for not closing the path.

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 the case with frivolous allegation. There is an admitted land dispute between the parties, which is clear from Annexure-2 series (regarding the dispute settlement of the land). Relying upon the judgment of the Apex Court in the case of *Hitesh Verma vs. State of Uttarakhand & Anr.* reported in **2020 (10) SCC 710**, it is submitted that if there is a land dispute between the parties, the appeal for anticipatory bail is maintainable and no offence under the SC/ST Act is made out against the appellants. Appellants have no criminal antecedent..

Learned Spl. PP for the State as well as learned counsel for the respondent no.2 opposed the prayer for bail by submitting that



cognizance has been taken by the learned Court below, therefore, the anticipatory bail is not applicable in view of the judgment of the Apex Court in the case of ***Bachu Das Vs. State of Bihar and others*** since reported in ***(2014) 3 Supreme Court Cases 471***.

Considering the facts and circumstances of the case, it is an admitted fact that there is a land dispute between the parties, therefore, the prayer for anticipatory bail is maintainable, as such, let 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, 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 Special Judge, SC/ST Act, East Champaran, Motihari, in connection with Complaint Case No.C-120/21, Trial No.39/2022, 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 allowed.

(Anjani Kumar Sharan, J)

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