

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.533 of 2022

Arising Out of PS. Case No.-8 Year-2018 Thana- SC/ST District- Bhagalpur

1. SUMIT SINGH @ SUMIT KUMAR SON OF BIVANAND RAI R/O MOHALLA- BHAGWAN MAHAVIR PATH, LAL KOTHI, TATARPUR, P.S.- TATARPUR, DISTRICT- BHAGALPUR
2. NEERAJ SINGH @ NEERAJ KUMAR CHOUDHARY SON OF RAM CHANDRA RAI R/O MOHALLA- LAL KOTHI, P.S.- TATARPUR, DISTRICT- BHAGALPUR
3. REKHA DEVI WIFE OF JHAKSHU YADAV @ CHATURBHUJ YADAV PERMANENT R/O MOHALLA- JHAJHA, P.S.- PHULLIDUMAR KENDUAR, DISTRICT- BANKA
4. UTTAMA DEVI @ KUMARI UTTAMA WIFE OF NILESH KUMAR PERMANENT R/O VILLAGE- SRIRAMPUR, P.S.- AKBARNAGAR, DISTRICT- BHAGALPUR
5. AMIT SINGH @ SANDEEP KUMAR RAI SON OF BIVANAND RAI R/O MOHALLA- BHAGWAN MAHAVIR PATH, LAL KOTHI, TATARPUR, P.S.- TATARPUR, DISTRICT- BHAGALPUR
6. NITENDRA KUMAR @ GUDDU SINGH SON OF RAMSWAROOP RAI R/O VILLAGE- FARREH, P.S.- KHAGARIA, DISTRICT- KHAGARIA

... .. Appellant/s

Versus

1. The State of Bihar
2. REKHA DEVI WIFE OF GOVARDHAN DAS R/O MOHALLA- LALKOTHI, P.S.- TATARPUR, DISTRICT- BHAGALPUR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Suresh Mishra, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 12-04-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

Learned counsel for the appellants undertakes to remove



the defects within four weeks.

Notice has validly been served upon the respondent no.2 but nobody appears on her behalf.

Learned counsel for the appellants has filed a supplementary affidavit stated therein that the name of appellant no.1 has wrongly been typed as Sunil Singh @ Sumit Kumar in place of Sumit Singh @ Sumit Kumar.

Learned counsel for the appellants is directed to correct the name of the appellant no.1 in course of the day.

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 of anticipatory bail vide order dated 27.10.2021 passed by learned 3rd Additional Sessions Judge cum Special Judge (SC/ST Act), Bhagalpur in connection with SC/ST Bhagalpur P.S. Case No. 08 of 2018 registered under Sections 147, 149, 341, 323, 504 of the Indian Penal Code and Section 3(1)(5)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution story, in short, is that there is a disputed property situated at Lal Kothi having Khata No. 217 and Khesra No. 1510 and 1512, which the accused persons were trying to occupy. On objection, appellants abused and assaulted the



informant.

It is submitted by learned counsel for the appellants that appellants are quite innocent and have committed no offence. Appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to ulterior motive. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. It was further submitted that informant and her husband are habitual of filing case under SC/ST Act. There is admitted land dispute between the parties. Slating the informant/complainant in the name of caste is said to have been made at 05:00 am in the morning which cannot be said to be in public view. Hence no offence under SC/ST Act is made out against the appellants. The occurrence took place on 02.06.2018 but the present written report has been given to police on 10.06.2018. There is inordinate delay of eight days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. Learned counsel for the appellants relied upon the judgment of the Hon'ble Apex Court in the case of **Hitesh Verma Vs. State of Uttarakhand and another reported in (2020) 10 Supreme Court Cases 710**. Appellants have criminal antecedent as



mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, as there is land dispute between the parties, the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned 3rd Addl. Sessions Judge cum Special Judge (SC/ST Act), Bhagalpur in connection with SC/ST Bhagalpur P.S. Case No. 8 of 2018, 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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