

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.1930 of 2021**

Arising Out of PS. Case No.-129 Year-2019 Thana- ARER District- Madhubani

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1. ROHIT MISHRA @ ROHIT KUMAR MISHRA Son of Late Lakhan Mishra R/O Village - Arer, Dih Tole, P.S. - Arer, District - Madhubani.
  2. Sanjeev Mishra @ Sanjeev Kumar Mishra Son of Rohit Mishra @ Rohit Kumar Mishra R/O Village - Arer, Dih Tole, P.S. - Arer, District - Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
  2. Manju Devi Nachari Mallik R/O- Arerdihtol, P.S.- Arer, District- Madhubani
- ... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Ashok Kumar Jha  
For the Respondent/s : Mr. Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN  
ORAL ORDER**

4      15-02-2023                      Heard learned counsel for the appellants and learned  
Special Public Prosecutor for the State.

Learned counsel for the appellants is directed to  
remove the defects, if any, within four weeks.

Though the notice was validly served upon the  
respondent no.2 and *vakalatnama* is also filed on his behalf but  
nobody appeared on behalf of the respondent no.2.

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 23.01.2021 passed by learned 1<sup>st</sup> Additional  
Sessions Judge, Madhubani in connection with Arer P.S. Case  
No. 129/2019, registered under Sections 341, 323, 354A, 302



and 34 of the Indian Penal Code and Section 3 (i)(r)(s)(w) (1)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. There is general and omnibus allegations levelled against the appellants. The appellant no.2 filed a petition before the Circle Officer for removal of encroachment from the public land on which the informant's family constructed hutment which was duly verified by the authorities of the Circle Officer and a report has been submitted saying that some encroachment were made by the informant's family on a public land giving trouble to the general public. Circle Officer due to act of the informant and her family members instituted a case in connection with Arer P.S. Case No. 124/2019 dated 29.11.2019 which was registered on 10.12.2019 under Sections 188, 353 and 34 of the Indian Penal Code and the informant is accused along with her husband and other family members. The Circle Officer submitted his reported in Encroachment Case No.5/18-19 analogous cases they have encroached the land appertaining to Khata No.950, Khesra No.8090 which was a public road and after institution of the FIR, the investigating officer reached at



the place of the occurrence on 10.12.2019. There is no specific overt act against the appellants. Appellants have got no criminal antecedent as mentioned in para-3 of memo of appeal.

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

In the facts and circumstances of the case and the fact that there is no specific overt act against the appellants to abuse the informant by taking caste name, let 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 bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned 1<sup>st</sup> Additional Sessions Judge, Madhubani in connection with Arer P.S. Case No. 129/2019, 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 allowed.

**(Anjani Kumar Sharan, J)**

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