

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2382 of 2021

Arising Out of PS. Case No.-40 Year-2019 Thana- SC/ST District- Kaimur (Bhabua)

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1. SUDAMA PANDEY Son of Late Ramdhari Pandey Resident of Village - Damodarpur, P.S. - Karamchat, District - Kaimur at Bhabua.
 2. Awadhesh Chaubey Son of Rajkeshwar Chaubey Resident of Village - Damodarpur, P.S. - Karamchat, District - Kaimur at Bhabua.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sukhan Paswan Late Mangaru Dushadh R/O Village-Banauli, P.S.- Karamchat, District-Kaimur, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Uday Pratap Singh
For the Respondent/s	:	Mr. Sadanand Paswan
		Mr. Rakesh Kumar No.1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 28-06-2023 Heard learned counsel for the appellants, learned counsel for the respondent no.2 as well as learned Special Public Prosecutor for the State.

This is an appeal under section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (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 27.02.2021, passed by learned Additional Sessions Judge 1st cum Special Judge, Kaimur at Bhabua in connection with SC/ST (Bhabua) P.S. Case No.40 of 2019, registered under sections 323, 34, 354, 504 and 34 of the Indian Penal Code and



3(1)(v)(s)(w)/3(2)(va) of S.C./S.T. Act.

Allegedly, the appellants assaulted the informant and his wife by means of kicks, fist and stick and also abused them by taking caste name.

Learned Counsel for the appellants submits that appellants are innocent and have been falsely implicated in the present case. No such occurrence as alleged has ever taken place. Slating the informant in the name of caste is not said to have been done in public view, hence no offence under the SC/ST Act is made out against the appellants. There is general and omnibus allegation against the appellants. There is no specific overt act against the appellants. He submits that after investigation the police has submitted charge-sheet against the appellants and the learned Court below took cognizance against the appellants. There is an admitted land dispute between the parties, which is apparent from Annexure-2 of the memo of appeal. Appellants have no criminal antecedent, which is also mentioned in para-3 of the memo of the appeal. Relying upon the judgment of the Hon'ble Apex Court in **Hitesh Verma Vs. State of Uttarakhand and another reported in (2020) 10 Supreme Court Cases 710.**, it is submitted that if there is a land dispute between the parties, the appeal for anticipatory bail



is maintainable.

Learned Spl.PP for the State as well as learned counsel for respondent no.2 opposed the prayer for bail by submitting that the present case is not maintainable as cognizance has been taken against the appellants by the learned Court below.

Considering the facts and circumstances of the case, since there is a land dispute between the parties, 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 Additional Sessions Judge 1st cum Special Judge, Kaimur at Bhabua in connection with SC/ST (Bhabua) P.S. Case No.40 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 allowed.

(Anjani Kumar Sharan, J)

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