

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2198 of 2021**

Arising Out of PS. Case No.-5 Year-2021 Thana- DIDARGANJ District- Patna

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1. KALESHWAR RAI S/o Kishun Rai R/o Mohalla- Didarganj, P.S.- Didarganj, District- Patna
 2. Udit Rai S/o Kaleshwar Rai R/o Mohalla- Didarganj, P.S.- Didarganj, District- Patna
 3. Kundan Rai S/o Ranjay Rai R/o Mohalla- Didarganj, P.S.- Didarganj, District- Patna

... .. Appellants.

Versus

1. The State of Bihar
2. Sujit Kumar Narayan Choudhary Mohalla-Didarganj,P.S-Didarganj,District- Patna

... .. Respondents.

Appearance :

For the Appellant/s : Mr.Pramod Kumar

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

7 30-08-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

2. Learned Special Public Prosecutor for the State has informed that in compliance of the order dated 17.07.2023, he has informed the informant/ complainant but none is present on his behalf.

3. 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 05.02.2021 passed by learned Additional Sessions Judge-III- cum-Special Judge (SC/ST Act), Patna in connection with Didarganj P.S. Case No. 05/2021 registered under Sections 341, 323, 379, 504 & 506/34 of the Indian Penal Code and Section 3(1) (r) (s)/3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Petitioners are said to have abused the informant by taking his caste name and also took away Rs.5000/- and golden jewellery etc.

5. It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to land dispute. As a matter of fact, the daughter of appellant no.1 has purchased land adjacent to the house of the informant. After purchasing land, the daughter and son-in-law of the appellant no.1 went at the spot and in presence of the vendor and the informant, the land was measured and it was detected that informant had encroached about 2½ dhurs of land for which the appellants and others tried to make understand the informant that he should vacate the encroached land but in spite of vacating the land, this false and frivolous case has



been lodged against them. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. Slating the informant in the name of caste is said to have been made at the house of the informant and not in public view, hence no offence under SC/ST Act is made out against the appellants. Learned counsel for the appellants relied upon the judgment passed in the case of **Hitesh Verma Vs. State of Uttarakhand and another** reported in (2020) 10 Supreme Court Cases 710. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

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

7. In the facts and circumstances of the case as well as the fact that there is admitted 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 Addl. Sessions Judge-III-cum Special Judge (SC/ST Act), Patna in connection with Special Case No.08/2021 corresponding to Didarganj P.S. Case No.05 of 2021, subject to the condition as laid down under Section 438



(2) of the Cr.P.C.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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