

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1608 of 2022

Arising Out of PS. Case No.-17 Year-2021 Thana- BARHARA KOTHI District- Purnia

1. GULSAN MAHTO @ GULSHAN KUMAR S/o- Rajendra Mahto Resident of village - Hanuman Nagar, Ward No. 10, P.S. - Barhara (Raghubansh Nagar), District - Purnea, Bihar.
2. CHANDAN MAHTO S/o- Lakshman Mahto Resident of village - Hanuman Nagar, Ward No. 10, P.S. - Barhara (Raghubansh Nagar), District - Purnea, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. LUTAN DEVI W/o Late Mantu Ram Resident of village - Hanuman Nagar, Ward No. 10, P.S. - Barhara (Raghubansh Nagar), District - Purnea, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.N.K. Agrawal, Sr. Adv. Mr.Kumar Rajdeep, Adv. Mr.Arvind Kumar, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 01-02-2023 Heard the parties.

In compliance of the order of this Court, informant was informed about this case but nobody appears on her behalf.

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 04.04.2022, passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Purnea, in connection with Barhara (Raghubansh Nagar) P.S. Case No.17 of 2021, registered u/s



364, 302, 201, 120-B/34 of the IPC and 3(2)(va) of SC/ST Act.

Allegedly, husband of the informant was killed by F.I.R. named accused persons and dead body was thrown under paddy husk near a canal.

It is submitted by learned senior 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. It is submitted that no offence under the SC/ST Act is made out against the appellants as the occurrence is not said to have taken place in public view nor there is any specific overt act against the appellants. It is submitted that appellants were not made accused in the charge sheet but during trial, summon was issued u/s 319 of the Cr.P.C., therefore, they were made accused in the present case. It is further submitted that there is a land dispute between the parties and 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. Appellants have no criminal antecedent.

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



Considering the facts and circumstances of the case, since there is no specific overt act against the appellants in the F.I.R., 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 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Purnea, in connection with Barhara (Raghubansh Nagar) P.S. Case No.17 of 2021, 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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