

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2894 of 2021

Arising Out of PS. Case No.-66 Year-2020 Thana- ARER District- Madhubani

1. ANIL MAHTO Son of Bechan Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
2. Pritesh Mahto @ Pritesh Kumar Mahto Son of Bipin Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
3. Ram Babu Mahto Son of Late Bilat Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
4. Gopi Mahto Son of Rajendra Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
5. Chunmun Mahto @ Shub Narayan Mahto Son of Satish Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
6. Prakash Mahto Son of Dilip Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
7. Sanju Mahto @ Sanjay Kumar Mahto Son of Sibu Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
8. Satya Narayan Mahto Son of Mahadev Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.
9. Suman Mahto Son of Baidya Nath Mahto Resident of village - Dhakjari Ward No.- 3, P.S.- Arer, District - Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Baelal Paswan Son of Late Ram Khelawan Paswan Resident of village - Dhakjari, P.S.- Arer, District - Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjay Kumar Jha, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 08-02-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

In compliance of the order of this Court, respondent
no.2 was informed about this case but nobody appears on his



behalf.

At the outset, learned counsel for the appellants seeks permission to withdraw this appeal so far as the appellant no.2 is concerned, as he has died during pendency of this appeal.

Permission is granted.

This appeal with regard to appellant no.2 is dismissed as withdrawn.

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 19.01.2021, passed by learned 1st Additional Sessions Judge, Madhubani, in connection with Arer P.S. Case No.66 of 2020, registered u/s 341, 323, 324, 354(B), 447, 448, 379, 427, 504, 506, 34 of IPC and sections 3(1)(r)(s)/ 3(2)(Va) of SC/ST Act.

As per F.I.R., the F.I.R. named accused persons including the appellants abused the informant by caste name and assaulted the informant's side. They also damaged the house and grains of informant and took Rs.1,000/- from his house.

It is submitted by learned 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 there is no specific overt act against the appellants to abuse the informant nor the occurrence is said to have taken place in public view. There is case and counter-case between the parties and also there is an admitted land dispute between them and in view of the judgment of the Apex Court in the case of *Hitesh Verma vs. State of Uttarakhand & Anr.* reported in **2020 (10) SCC 710**, 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 anticipatory bail.

Considering the facts and circumstances of the case and the *Hitesh (supra)* case, let appellant nos.1 and 3 to 9, 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, Madhubani, in connection with Arer P.S. Case No.66 of 2020, 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 partly allowed.

(Anjani Kumar Sharan, J)

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