

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1962 of 2022

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

ANIL MAHTO @ ANIL KUMAR MAHTO SON OF YOGENDRA MAHTO
RESIDENT OF VILLAGE- HANUMAN NAGAR , WARD NO 10 , P.S-
BARHARA (RAGHUBANSH NAGAR) DIST- PURNEA

... .. Appellant/s

Versus

1. The State of Bihar
2. Lutan Devi Wife of Late Mantu Ram R/V- Hanuman Nagar, P.S- Barhara
(Raghubansh Nagar) Dist- Purnea

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 06-02-2023 This court has been listed today under the heading “To
Be Mentioned” at the instance of the Court for necessary
correction in the name and address of respondent no.2.

In view of order dated 01.02.2023, learned counsel for
the appellant has corrected the name of respondent no.2 in the
cause-title of the memo of appeal in the Court today.

Office has also corrected the name of respondent no.2 in
the cause-title today.

Accordingly, order dictated on 01.02.2023 is as
follows:-

Heard learned counsel for the appellant and learned



Spl.P.P. for the State.

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 appellant that the appellant is innocent and has not committed any offence. No such occurrence, in the manner as alleged has ever taken place. Appellant has been falsely implicated in this case with frivolous allegation. It is submitted that no offence under the SC/ST Act is made out against the appellant, as the alleged offence is not said to have taken place in public view



nor there is any specific overt act against the appellant. It is submitted that appellant was not made accused in the charge sheet but during trial, summon was issued u/s 319 of the Cr.P.C., therefore, he was 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. Appellant has no criminal antecedent.

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

Considering the facts and circumstances of the case, since there is no specific overt act against the appellant in the F.I.R., let the appellant named above, in the event of his 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) 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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