

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2782 of 2022

Arising Out of PS. Case No.-181 Year-2018 Thana- BIRAUL District- Darbhanga

1. Tribhuwan Narayan Jha, Son of Ugra Narayan Jha Resident of Village - Bairampur, P.s.- Biraul, Distt.- Darbhanga.
2. Manoj Kumar Rai, Son of Janardan Prasad Rai Resident of Village - Hanshi, P.s.- Biraul, Distt.- Darbhanga.

... .. Appellants.

Versus

1. The State of Bihar
2. Sagar Paswan Sonof Late Mohit Paswan Resident of Village - Pataniya, P.s.- Biraul, Distt.- Darbhanga.

... .. Respondents.

Appearance :

For the Appellants	:	Mr. Pankaj Kumar Jha, Advocate
For the respondent no.2	:	Mr. Madhav Kumar, Advocate
For the State	:	Mr. Binay Krishna, Special P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

4 19-04-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State assisted by learned counsel for the respondent no.2.

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 25.07.2022 passed by learned Additional Sessions Judge-III-cum-Exclusive Special Judge (SC/ST Act), Darbhanga in connection with Biraul P.S. Case No. 181 of 2018 registered under Sections 147, 341, 323 & 307 of the Indian



Penal Code and Section 3(i) (r) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in brief, is that while the informant was regressing towards his home from the chowk, he saw accused persons including these appellants were constructing bamboo house on the land of Arvind Mishra, who is his villager. Thereafter, the said Arvind Mishra protested then all the accused persons assaulted him. When informant tried to intervene into the matter, he was abused by his caste name.

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 dirty village politics. The allegation of assault levelled against the appellants is not specific rather general and omnibus in nature. The allegation of slating the informant is not specific rather general and omnibus in nature. It is further submitted that there is admitted land dispute between the parties in which these appellants are conducting Lawyers of co-accused and appeared in the different proceedings on behalf of the co-accused and due to *mala fide* intention the respondent no.2 has implicated these appellants in this false and concocted case It is further submitted that during course of investigation,



the Investigating Officer submitted a final form in favour of these appellants and not sent up them for trial but differing with the final form, the learned court below in a routine manner took cognizance against these appellants. In buttress of his submissions, learned counsel for the appellants placed reliance in the case of ***Hitesh Verma Vs. State of Uttarakhand and another*** reported in ***(2020) 10 Supreme Court Cases 710*** and submitted that in this case also there is land dispute between the parties. Appellants have no criminal antecedent.

Learned Spl. PP for the State assisted by learned counsel for the respondent no.2 vehemently opposing the prayer for bail submitted that after investigation the police has submitted the final form and the learned Court below has taken cognizance against the appellants. It is further submitted that in view of the law laid down by the Hon'ble Apex Court in the case of ***Bachu Das Vs. State of Bihar and others*** since reported ***in (2014) 3 Supreme Court Cases 471*** anticipatory bail application is not maintainable before this Court.

Having heard learned counsel for the parties, in my considered opinion, the judgment in the case of ***Hitesh Verma (supra)*** in the facts and circumstances of the present case is not applicable because in that case the land dispute was



between the parties, whereas in the case under hand, the appellants are said to be Lawyers of these appellants. I find force in the submission of learned Special P.P. that after investigation the police has submitted the final form and the learned Court below has taken cognizance against the appellants and in view of the law laid by the Hon'ble Apex Court in the case of ***Bachu Das (supra)*** the present appeal is not maintainable before this Court.

In such view of the matter, I am not inclined to enlarge the appellants on bail. The prayer for bail is hereby rejected.

Accordingly, this appeal is dismissed.

(Anjani Kumar Sharan, J)

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