

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3607 of 2022

Arising Out of PS. Case No.-41 Year-2022 Thana- SC/ST District- Bhojpur

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1. Rahul Sharma @ Rahul Kumar Sharma Son of Bhutali Sharma Resident of village Khandol, Police Station Sandesh in the district of Bhojpur.
 2. Vikash Sharma @ Vikash Kumar Son of Bhutali Sharma Resident of village- Khandol, Police Station- Sandesh in the district of Bhojpur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR.
2. Lal Babu Prasad Son of Late Munshi Prasad Resident of village- Khandol, P.S- Sandesh in the district of Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 11-01-2023 Heard learned counsel for the appellants and learned
Special P.P. for the State.

Despite information given by learned Special P.P. for the State regarding hearing of the case, none appears on behalf of the informant today.

This appeal is filed under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 01.09.2022, passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara in connection with Bhojpur SC/ST P.S. Case No.41 of 2022, registered under



Sections 341, 323, 384 of the Indian Penal Code and Sections 3(i)(x) of the SC/ST Act.

The prosecution case, in brief, is that on the alleged date of occurrence, i.e., 01.09.2021 at about 10 a.m., the appellants started construction over an old wall near the house and as soon as the informant protested, they abused him by naming his caste and also assaulted him by fists and slaps and thereafter they stated that they have purchased the land.

Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. It is submitted that the appellants have got no criminal antecedent as stated in paragraph-3 of memo of appeal. It is further submitted that there is general and omnibus allegation against the appellants. It is also submitted that there is admitted land dispute between the parties. The occurrence took place on 01.09.2021, but complaint was filed on 10.09.2021 after delay of nine days without giving any explanation which creates a serious doubt on the veracity of the prosecution case. Learned counsel for the appellants has relief upon the judgment of the Hon'ble Apex Court passed in the case of Hitesh Verma Vs. State of Uttarakhand & Anr., reported in (2020) 10 SCC 710.



Learned Special P.P. for the State opposed the prayer for anticipatory bail of the appellants.

Having considered the facts aforesaid, let appellants, above named, 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 bonds of Rs.25,000/- (rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara in connection with Bhojpur SC/ST P.S. Case No.41 of 2022, subject to the conditions 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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