

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3748 of 2022

Arising Out of PS. Case No.-252 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. MD. ILIYAS Son of Khuda Bax Miyan Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 2. MD. SHEKHAWAT Son of Late Aoli Mohammad Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 3. MD. NAUSHAD Son of Md. Shekhawat Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 4. MD. RAHIMUDDIN Son of Md. Shekhawat Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 5. MD. NAIMUDDIN Son of Md. Shekhawat Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 6. MD. IMRAN @ IBRAN Son of Md. Naimuddin Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 7. MD. JAKIR Son of Md. Iliyas Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur
 8. MD. SAHID @ MD. SAHIL Son of Md. Iliyas Resident of village- Balaha Vishwanath, P.S.- Khanpur, District- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Fulwati Devi wife of Ram Prakash Ram Village- Balaha Vishwanath, Ps- Khanpur Dist- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajoday Satyjeet, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 28-06-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

Learned Spl.PP. for the State submits that in compliance
of order dated 07.12.2022, he informed the complainant to
appear in the present appeal through her counsel, 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, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 01.08.2022 passed by learned A.D.J.-I cum Special Judge (SC/ST Act), Samastipur in connection with Complaint Case No. 252 of 2019 registered under Sections 147, 341, 323, 427, 504 of the Indian Penal Code and Section 3(1) (r) (s) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution story, in brief, is that on 28.08.2019, the appellants came at the door of complainant and cut the tree of Ajan and took away with them. When complainant opposed for the same, they started abusing the complainant and threatened to kill her and when her husband tried to save her, all the appellants started assaulting him.

It is submitted by learned counsel for the appellants that the appellants are quite innocent and have committed no offence. They 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. There is admitted land dispute between the parties. It is further submitted that complainant and her family members want passage through the land of the appellants and when appellants refused for the same, they filed the present case against the appellants. It is further submitted that though this is a complaint petition and cognizance has been taken against all the appellants, but there is no specific overt act of abusing by taking the caste name against appellant nos. 3, 5, 6, 7 & 8. Hence, no offence under Section SC/ST Act is made out against the appellant nos. 3, 5, 6, 7 & 8. Appellants have two criminal antecedents as mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State opposed the prayer for bail by submitting that there is specific overt act of abusing the complainant by taking her caste name against appellant nos. 1, 2 & 4. He further submitted that cognizance has been taken by the learned Court below against all the appellants, therefore, the anticipatory bail of the appellants is not applicable in view of the judgment of the Apex Court in the case of **Bachu Das Vs. State of Bihar and others since reported in (2014) 3 Supreme Court Cases 471.**

In the facts and circumstances of the case, as there is no



specific overt act against appellant nos. 3, 5, 6, 7 & 8, the above named appellant nos. 3, 5, 6, 7 & 8, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned A.D.J.-I cum Special Judge (SC/ST Act), Samastipur in connection with Complaint Case CR. No. 252 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

As there is specific allegation of abusing by taking the caste name against appellant nos. 1, 2 & 4, I am not inclined to enlarge the appellant nos. 1, 2 & 4 on bail. The prayer for bail of the appellant nos. 1, 2 & 4 is hereby rejected.

Accordingly, this appeal stands partly allowed.

(Anjani Kumar Sharan, J)

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