

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.841 of 2022

Arising Out of PS. Case No.-17 Year-2019 Thana- BENIPATTI District- Madhubani

1. ARUN KUMAR MISHRA @ ARUN MISHRA SON OF LATE UPENDRA MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI
2. SANTOSH MISHRA SON OF LATE UPENDRA MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI
3. SUFAL MISHRA SON OF LATE UPENDRA MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI
4. DIWAKAR MISHRA @ BUCHACHA MISHRA SON OF ARUN MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI
5. GANESH MISHRA SON OF BAUKU MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI
6. NAVENDRA MISHRA SON OF LATE SHIBU MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI
7. SURAJ MISHRA @ SAMIR MISHRA SON OF NAVENDRA MISHRA R/O VILLAGE- BETAUNA, P.S.- BENIPATTI, DISTRICT- MADHUBANI

... .. Appellant/s

Versus

1. The State of Bihar
2. PANCHU SAFI SON OF LATE SUKDEO SAFI R/O VILLAGE- BETAUNA, P.O. AND P.S.- BENIPATTI, DISTRICT- MADHUBANI, PIN CODE- 847223

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Subhash Kumar Jha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-05-2024 1. Heard learned counsel for the appellants, Mr. Sadanand Paswan learned Special Public Prosecutor for the State and Mr. Ravi Ranjan learned counsel appearing on behalf of the respondent no. 2.

2. This is an appeal 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 for anticipatory bail vide order dated 18.01.2022 in A.B.P. No. 13 of 2022 passed by the learned 1st Additional Sessions Judge, Madhubani in connection with C.R. Case No. 80 of 2019 corresponding to T.R. No. 1254 of 2021 arising out of Benipatti P.S. Case No. 17 of 2019, dated 16.01.2019 corresponding to C.I.S. No. 05 of 2019 registered under Sections 341, 323, 325, 379, 504, 506 and 34 of the Indian Penal Code as well as Sections 3(x) of the SC/ST Act.

3. Learned counsel for the appellants submits that appellants are persons with clean antecedent and have been falsely implicated in the instant case by the informant. It is further submitted that the complainant (respondent no. 2) as informant had instituted Benipatti P.S. Case No. 17 of 2019 against the appellants alleging therein that the informant on 15.01.2019 at about 04:45 p.m. was going to purchase a buffalo along with Ram Prasad Yadav, Palat Yadav and Bhogi Yadav when the appellants along with other accused persons came variously armed and assaulted him, thereafter Arun Mishra put revolver on his chest and abused him by taking his caste name and snatched Rs.35,000/- from his pocket, thereafter Santosh Mishra assaulted him by an iron rod causing injury on his head and Ganesh Mishra snatched his golden chain and watch.



4. Learned counsel for the appellants submits that the appellants have been falsely implicated by the informant on account of dispute relating to land. It is further submitted that appellant no. 1 herein had earlier instituted Benipatti P.S. Case No. 15 of 2019 against the informant and his side. It is next submitted that from perusal of the allegation as alleged in the FIR, the same appears to be general, omnibus and ornamental in nature except that Santosh Mishra is alleged to have assaulted the informant by an iron rod. It is also submitted that the police, after threadbare investigation, came to a considered conclusion that the appellants are innocent and thus submitted final form exonerating them of the allegation but the informant from before had filed a protest petition which was treated as complaint and based on the evidence of the complainant and his two witnesses cognizance came to be taken as such the appellants apprehend their arrest.

5. Learned counsel next submits that when one investigating agency based on a threadbare investigation has come to a considered conclusion that appellants are innocent, whether it would be prudent for the Court to send the appellants to jail based on cognizance taken on protest petition. It is further submitted that the learned court below, at the time of taking cognizance, does not have any other material except the evidence of the complainant and his witnesses.



6. Learned Special Public Prosecutor and the learned counsel appearing on behalf of the respondent no. 2 opposed the prayer for anticipatory bail but then are not in a position to rebut the submissions of the learned counsel appearing on behalf of the appellants that police after investigation submitted final form exonerating them of the allegation but then the learned Spl.P.P. submits that cognizance has been taken as such the appellants should surrender and seek bail.

7. At this stage, learned counsel for the appellants seeks permission to withdraw this appeal.

8. Permission is accorded.

9. Accordingly, this appeal stands dismissed as withdrawn.

10. However, if the appellants surrender on or before 01.06.2024, the learned trial court shall dispose of the case on the same day keeping in mind the fact that one investigating agency has found the appellants to be innocent.

(Satyavrat Verma, J)

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