

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1077 of 2024

Arising Out of PS. Case No.-46 Year-2017 Thana- BHAGWANPUR District- Begusarai

1. NARENDRA MAHTO @ NARENDRA PRASAD @ TUNTUN MAHTO SON OF LATE MAHENDRA MAHTO RESIDENT OF VILLAGE - KARJAN MANOPUR, P.S. - BHAGWANPUR, DISTRICT - BEGUSARAI
2. GOPAL MAHTO @ RAJ KISHORE PRASAD SON OF NARENDRA MAHTO @ NARENDRA PRASAD RESIDENT OF VILLAGE - KARJAN MANOPUR, P.S. - BHAGWANPUR, DISTRICT - BEGUSARAI

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. ANIL PASWAN SON OF LATE BINDESHWARI PASWAN RESIDENT OF VILLAGE - BISHANPUR, P.S. - BHAGWANPUR, DISTRICT - BEGUSARAI

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sunil Kumar Yadav, Adv.
For the Respondent/s : Mr. Binay Krishna, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 25-10-2024 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

2. Learned Spl.PP. for the State submits that vide order dated 20.09.2024, he informed the informant to appear in the present appeal through his counsel, but nobody appears on his behalf.

3. 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 31.01.2024 passed by learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Bhagwanpur P.S. Case No. 46 of 2017 registered under Sections 341, 323, 354, 504, 506, 379, 427, 34 of the Indian Penal Code and Section 3 (i) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Allegedly, all the accused persons including the appellants are said to have committed loot of crops of wheat from the field of the informant and plowed other two plots. On objection, they assaulted the informant and also abused him by taking his caste name. It is further alleged that when the wife of informant came to save him, the accused persons have assaulted her and pulled her sari and torn her blouse due to which his wife became half naked.

5. 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 for which a title suit bearing Title Suit No. 176 of 2009 is pending between



them. Learned counsel for the appellants relied upon the judgment of the Apex Court in the case of ***Hitesh Verma Vs. State of Uttarakhand and another*** reported in ***(2020) 10 Supreme Court Cases 710***. It is further submitted that the appellants were granted the privilege of Section 41A of the Cr.P.C. Later on, after investigation, the charge sheet has been submitted against the appellants by the police. It is further submitted that the learned Court below has taken cognizance against the appellants. Similarly situated co-accused have been granted anticipatory bail by this Court in Cr. APP (SJ) No. 3492 of 2023 on 10.01.2024. Appellants have no criminal antecedent as mentioned in para-3 of memo of appeal.

6. Learned Special PP for the State opposes the prayer for bail and submits that the cognizance has been taken against the appellants and 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***, the anticipatory bail application is not maintainable before this Court.

7. In the facts and circumstances of the case, since there is admitted land dispute between the parties, the above named appellants, 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 Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection with Bhagwanpur P.S. Case No. 46 of 2017, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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