

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1323 of 2023

Arising Out of PS. Case No.-228 Year-2010 Thana- BARUN District- Aurangabad

1. SURENDRA KUMAR SINGH @ SURENDRA SINGH S/O- Late Khedan Singh Village- Kochadh Ps- Barun Dist- Aurangabad
2. Binda Singh @ Birendra Singh son of Late Khedan Singh Village- Kochadh Ps- Barun Dist- Aurangabad
3. Jitendra Singh son of Late Khedan Singh Village- Kochadh Ps- Barun Dist- Aurangabad
4. Rajendra Singh son of Late Khedan Singh Village- Kochadh Ps- Barun Dist- Aurangabad
5. Krishna Singh son of Late Khedan Singh Village- Kochadh Ps- Barun Dist- Aurangabad
6. Bikarma Singh @ Bikram Kumar Son of Surendra Kumar Singh @ Surendra Singh Village- Kochadh Ps- Barun Dist- Aurangabad
7. Udhham Singh @ Udhham Singh Son of Surendra Kumar Singh @ Surendra Singh Village- Kochadh Ps- Barun Dist- Aurangabad
8. Bichar Singh @ Bichar Kumar Son of Surendra Kumar Singh @ Surendra Singh Village- Kochadh Ps- Barun Dist- Aurangabad
9. Shakti Singh @ Shakti Kumar son of Binda Singh @ Birendra Singh Village- Kochadh Ps- Barun Dist- Aurangabad
10. Sudhir Singh @ Sudhir KUMAR son of Rajendra Singh Village- Kochadh Ps- Barun Dist- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Ram Naresh Ram Son of Late Saryu Ram Village- Kochadh Ps- Barun Dist- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Singh
For the Respondent-2	:	Ms. Kumari Chanda
		Mr. Rakesh Kumar Jha
For the State	:	Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 16-12-2024 1. Heard learned counsel for the appellants, learned counsel
for the informant and learned Special Public Prosecutor



for the State.

2. An order, dated 30.01.2023, passed by learned 1st Additional District and Sessions -cum- Special Judge SC/ST, Aurangabad, in ABP No. 136 of 2023, is under challenge in the present appeal preferred under Section 14-A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellant in connection with Barun Police Station Case No. 228 of 2010 registered for the offence punishable under Sections 302/34 of the Indian Penal Code and Section 3(2)(V) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, has been rejected.
3. The prosecution case, as per the First Information Report, is that the land dispute with Khedan Singh was there for the last 7-8 years pertaining to a piece of land which is in possession of the informant for the last 30-35 years, a Title Suit No. 51 of 1974 was filed and decided in favour of the informant. Thereafter, rent receipt were issued in favour of the informant inspite of the same, the appellants and other accused persons used to threaten the children of the informant and used to abuse them by taking their caste



name. On 24.09.2010, the grand-son of the informant went outside the house to play, but did not return and despite search, the boy could not be found. During the course of search, when the shirt of the boy was found lying near the bank of canal, search was made in the canal from where the dead body of the boy recovered from the pit of the canal with blood mark and neck was pressed/mutilated.

4. Learned counsel for the appellants submits that the entire family have been made accused and they are appellants before this Court due to land dispute between the parties. There is long standing land dispute between the parties with regard to 1 acre 9.5 decimal of land appertaining to Plot No. 139, 358 & 94, Khata No. 55, 20 & 9. For the aforesaid dispute a Title Suit No. 400 of 2013 has been filed by informant-Ram Naresh Ram and anothers, in which, the appellants are defendants and the suit is pending before the Court of Sub-Judge II, Aurangabad. Apart from the aforesaid case, two other cases i.e. Mutation Revision Case No. 118/2004-2005 (Dev Rani Devi vs. Ram Naresh Ram & others) and Mutation Revision Case No. 55/2013/117/2017-18 (Ram Naresh



Ram & others vs. Khedan Singh) were decided by the order, dated 13.12.2004 and 26.10.2018, respectively, in favour of the appellants. He next submits that the deceased/victim Rohit Kumar, while taking bath in canal, had drowned and died, but the informant, in order to take advantage of the land dispute, has lodged false case against the entire family of the appellants. He further submits that after investigation, the police found the case as false against the appellants and has submitted final from exonerating the appellants and not sending them for trial. However, learned Special Judge has differed with the police report and has taken cognizance against the appellants by order, dated 14.09.2020. During course of investigation, the witnesses have said that the victim has died due to drowning in the canal.

5. On the other hand, learned counsel for the respondent no. 2 argued that the appellants, along with others, have killed the informant's grand-son and his dead body was recovered from the canal during search by the informant.
6. Having regard to the submissions made on behalf of the parties and taking into consideration the police report and the fact that there appears to be long standing land dispute



between the parties, I am inclined to grant the appellants privilege of anticipatory bail.

7. This appeal is, accordingly, allowed and the order, dated 30.01.2023, passed by learned 1st Additional District and Sessions -cum- Special Judge SC/ST, Aurangabad, in ABP No. 136 of 2023, is set aside.
8. Let the appellants, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions -cum- Special Judge SC/ST, Aurangabad, in connection with Barun Police Station Case No. 228 of 2010, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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