

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1379 of 2024

Arising Out of PS. Case No.-72 Year-2023 Thana- SC/ST District- East Champaran

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1. Kailash Mahato, S/O Late Shivraj Mahato
 2. Kanti Devi @ Santi Devi, W/O Kailash Mahato
 3. Ganesh Mahato, S/O Kailash Mahato
 4. Raja Mahato, S/O Kailash Mahato
 5. Laxman Kumar S/O Kailash Mahato
 6. Sunita Devi, W/O Raja Mahato
 7. Lakshmi Devi, W/O Ramdular Mahato
- All residents of village- Mathiya Dih, Ward No. 7, P.S- Chhatauni, District- East Champaran.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Sumitra Devi, W/O Vishwanath Paswan, R/O Mathiyadih, Ward No.-7, Dhaka Road, P.S- Chhatauni, Distt.- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manoj Kumar, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl.P.P.
For respondent no.2	:	Mr. Rakesh Kumar No.1, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 05-07-2024

Heard learned counsel for the appellants, learned counsel for the informant/respondent no.2 as well as learned Special PP for the State.

02. The present appeal has been preferred by the appellants under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail by order dated



13.02.2024 passed by learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge, SC/ST (Prevention of Atrocities Act), East Champaran at Motihari in connection with Motihari SC/ST P.S. Case No. 72 of 2023 registered on 24.12.2023 for the alleged offences under Sections 341, 323, 354(B), 384, 379, 504, 506, 34 of the Indian Penal Code and Section 3(i)(r)(s)/W(i)(g)/3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

03. As per the prosecution case, the allegation against the appellants and other co-accused persons is that of demanding extortion money of Rs. 5,00,000/- and abusing the informant taking caste name. Further allegation against the appellants and others is that of damaging the boundary-wall of the land of the informant and also assaulting her with slaps and fists and dragging her on land, outraging her modesty.

04. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this case. There is inordinate delay of 20 days in lodging the FIR for which there is no satisfactory explanation. The learned counsel further submits that the background of land dispute is apparent from the contents of the FIR. All the appellants come from the same family and the land bearing Khata No. 42,



Khesra No. 203 and Khata No. 43, Khesra No. 207 is inherited property of the appellant Kailash Mahato. The informant has been pressurizing the appellant Kailash Mahato to sell the land in question and they even prepared a deed. Thereafter, the informant purchased the said land from Suggi Devi. The boundary wall was constructed on the land of the appellant Kailash Mahato. The informant tried to pressurize the appellants for transferring the land in her name and also called a *Panchayati* and when she failed in her design, after twenty days, she has filed this false and concocted case. The learned counsel further submits that from the facts of the case, the application of Sections 384 or 379 or 354B is not believable. There could be no application of the provisions of SC/ST Act against the appellants since they were not knowing even the caste name of the informant and the allegations have been maliciously leveled to make the offence serious without considering the fact that the appellant Kailash Mahato is an old man aged about 73 years and other persons are his wife and sons and other family members. The learned counsel further submits that the co-accused Brijkishore Kumar has been granted anticipatory bail by this Court vide order dated 10.06.2024 passed in Cr. Appeal (SJ) No.1793 of 2024. The



learned counsel further submits that the appellants are having clean antecedent.

05. Learned Special PP as well as learned counsel for the informant/respondent no.2 vehemently oppose the submission made on behalf of the appellants. Learned counsel for the respondent no. 2 submits that the appellants abused the informant taking her caste name and also damaged the boundary wall erected by the informant on her land. The appellants assaulted and threatened the informant.

06. Having regard to the aforesaid facts and circumstances and submissions made on behalf of the parties and considering the strong possibility of false implication in the background of land dispute and further considering the clean antecedent of the appellants, let the appellants above named in the even of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (POA) Act, East Champaran, Motihari, in connection with Motihari SC/ST P.S. Case No. 72 of 2023, subject to the condition laid down under Sections 438(2) of the Code of Criminal Procedure and other



following conditions:

- (i) One of the bailors will be a close relative of the appellants.
- (ii) The appellants will remain present on each and every date fixed by the court below.

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

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.07.2024
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