

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1612 of 2024

Arising Out of PS. Case No.-19 Year-2019 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. Razaque Miyan @ Sekh Rajak son of Sekh Bhola Village- Katahan Ps- Motihari Muffasil Dist- East Champaran
 2. Aslam Mian @ Md. Asalam Son of Sekh Salim Village- Katahan Ps- Motihari Muffasil Dist- East Champaran
 3. Irfan Mian @ Md. Irfan Alam son of Sekh Salim Village- Katahan Ps- Motihari Muffasil Dist- East Champaran
 4. Sahdev Miyan @ Amirullah son of Sekh Vasul Village- Katahan Ps- Motihari Muffasil Dist- East Champaran
 5. Sobertani Khatoon @ Soratan Nesha wife of Sekh Salim Village- Katahan Ps- Motihari Muffasil Dist- East Champaran
 6. Ajmara Khatoon @ Anjum Ara wife of Sekh Rajak Village- Katahan Ps- Motihari Muffasil Dist- East Champaran
 7. Malkesh Miyan @ Md. Kaish son of Sekh Satar Village- Katahan Ps- Motihari Muffasil Dist- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunari Devi wife of Mushhar Paswan Village- Katahan Ps- Motihari Muffasil Dist- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Tiwari, Adv
For the State : Mr. Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 25-10-2024 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State. Though, in compliance of the order of this Court, learned Spl.P.P. for the State informed the complainant to appear in this case, but despite that nobody has entered appearance on her behalf.



2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the refusal of prayer of anticipatory bail vide order dated 01.03.2024, passed by learned Court of Special Judge, (SC/ST Act), East Champaran, Motihari, in connection with Complaint Case No.19 of 2019, registered under Sections 147, 149, 323, 504, 379 of the Indian Penal Code and Section 3(1) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per the prosecution case, all the named accused persons including the appellants came to the house of the complainant and assaulted and threatened to kill her. They took away valuable articles from the house. It is further alleged that they abused her by her caste name.

4. It is submitted by learned counsel for the appellants that the appellants 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. Slating the informant/complainant in the name of caste is said to have been made at the house of the complainant and not in public view, hence no offence under SC/ST Act is made out



against the appellants. There is a land dispute between the parties and place of occurrence is exclusive property of the petitioners, which the informant and her sons have encroached forcibly and has constructed their house. Further the offences registered u/s 379 IPC is concocted one, in view of the fact that the enquiry witnesses have not supported the allegation of theft. Relying upon the judgment of the Apex Court in the case of ***Hitesh Verma vs. State of Uttarakhand & Anr.*** reported in **2020 (10) SCC 710**, it is submitted that if there is a land dispute between the parties, the appeal for anticipatory bail is maintainable. Appellant nos. 1 and 4 have one criminal antecedent and appellant nos.2, 3, 5, 6 and 7 have no criminal antecedent as mentioned in para-3 of memo of appeal.

5. Learned Spl. PP for the State opposed the prayer for bail.

6. In the facts and circumstances of the case, let 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 Court of Special Judge, (SC/ST Act), East Champaran, Motihari, in connection with Complaint Case No.19 of 2019,



subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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