

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5158 of 2023

Arising Out of PS. Case No.-110 Year-2019 Thana- COMPLAINT CASE District- Supaul

1. Md. Naushad Khan @ Md. Naushad Alam S/O Late Jameel Khan Village- Thadhi Bhawanipur, Ward No. 6, Ps. Pipra, Dist. Supaul-852218
2. Md. Nazim Khan @ Naazim Khan S/O Late Habib Khan @ Late Ahmad Data Khan Village- Thadhi Bhawanipur, Ward No. 6, Ps. Pipra, Dist. Supaul-852218

... .. Appellant/s

Versus

1. The State of Bihar
2. Indradeo Paswan S/O Late Khadkan Paswan Village- Thadhi Bhawanipur,Ps. Pipra, P.O. Thadhi Bhawanipur, Dist. Supaul- 852218

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Syed Masleh Uddin Ashraf, Adv.
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 15-07-2024 Heard learned counsel appearing on behalf of appellants and Spl. Public Prosecutor for the State.

2. This appeal has been filed against the order dated 25.09.2023 passed by learned Additional Sessions Judge 1st, Supaul in connection with A.B.A. No. 1264 of 2023 arising out of Complaint Case No. 110C of 2019, registered under Sections 323, 504 of the Indian Penal Code and Sections 3(i)(r)(s) of the SC/ST Act, whereby the prayer for anticipatory bail of appellants has been rejected.

3. The prosecution story, according to the complaint, is that the appellants conspired and prepared forged documents



in order to grab the part of the land of the complainant. On 21.12.2019 at about 10 A.M., when the complainant went to enquire the matter with the appellants, then the appellants abused him by calling his caste name and also assaulted and threatened to kill him.

4. It is submitted on behalf of appellants that due to land dispute between the parties, appellants have been made accused in this case. There is general and omnibus allegations against the appellants. Further submission is that the incident did not take place within public view and hence no offence under SC/ST Act is made out. Appellants claim clean antecedent.

5. However, learned Spl. Public Prosecutor appearing for the State vehemently opposed the bail application and submitted that this anticipatory bail application is not maintainable as the Court below has already taken cognizance of the offence punishable under sections 323, 504 Indian Penal Code read with sections 3(i)(r)(s) of the SC/ST Act. In this connection, he refers to a decision of the *Hon'ble Supreme Court*, passed in case of *Bachu Das Vs State of Bihar and others*, reported in *Cr. Appeal No. 314 of 2014*.

6. Considering the aforesaid facts and circumstances of



the case as also the law laid down by the *Hon’ble Supreme Court* in the case of *Bachu Das (supra)*, instant appeal filed for pre-arrest bail to the appellants, is dismissed as being not maintainable.

(Prabhat Kumar Singh, J)

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