

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2495 of 2023

Arising Out of PS. Case No.-314 Year-2021 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. VINOD SAH Son of Late Ram Chandra Sah Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 2. Subodh Kumar Sah Son of Late Ram Chandra Sah Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 3. Kumod Kumar Sah Son of Late Ram Chandra Sah Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 4. Kaushal Kumar Pankaj Son of Late Ram Chandra Sah Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 5. Md. Ziaul Son of Md. Mozibul Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 6. Md. Mozibul Son of Late Jainul Haque Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 7. Jitendra Kumar Mahto Son of Shankar Mahto Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 8. Virendra Mahto @ Pappu Son of Late Jogendra Mahto Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur
 9. Shashinath Bharti Son of Late Ram Khelawan Mahto Resident of Village Darhia Belar, PS- Samastipur (M), Distt- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Baidnath Mahto Son of Late Ram Sewak Mahto Resident of Village- Darhia Belar, PS- Samastipur (M), Distt- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar No1
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 7 07-01-2025 1. Heard learned counsel for the appellants and learned Additional Public Prosecutor for the State.
2. An order, dated 28.03.2023, passed by learned Special Judge SC/ST (POA) Act, Samastipur, in ABP No. 961 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 C.R. No. 314 of 2021 arising out of Samstipur (M) Police Station Case No. 40 of 2021 registered for the offence punishable under Sections 323 of the Indian Penal Code and Section 3 (1)(r)(s) 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 on 13.12.2020, in the morning, some unknown persons destroyed crop standing in the land of complainant/informant. It has further been alleged that the appellants and other accused persons assaulted the informant/complainant. The appellant no. 5 snatched hanumani locket from the informant. The complaint filed by the informant was sent for registration of First Information Report under Section 156 (3) of the Code of Criminal Procedure and accordingly Samastipur (M) Police Station Case No. 40 of 2021 was registered.
4. Learned counsel for the appellants submits that the



appellants have been made accused due to land dispute between the appellants and complainant/informant. He next submits that the police after investigation exonerated the appellants and submitted final form on 31.03.2021, not sending the appellants for trial. Thereafter, a protest petition was filed by the informant upon which cognizance has been taken under Section 323 of the Indian Penal Code read with Section 3(1)(r)(s) of the Scheduled Cast and Scheduled Tribe Act. Referring to supplementary affidavit, learned counsel submits that complainant/informant filed the Land Dispute case no. 04 of 2022-23, which was decided on 01.08.2023 by DCLR, Samastipur, holding that the dispute involved question of title between parties directing the complainant/informant to approach the competent court of civil jurisdiction. Learned counsel further submits that appellant no. 7, 8 and 9 are members of SC/ST community, which would be evident from caste certificate annexed at Annexure-6 of the 2nd supplementary affidavit filed by the appellants. He also submits that prima facie it appears that the police after investigation submitted final form on the ground that there was land dispute between the parties, but learned



Magistrate, in mechanical manner, has taken cognizance against the appellants. The allegation against the appellants of taking caste name is not in full public view.

5. Despite service of notice, no one appeared on behalf of the respondent no. 2
6. Having regard to the submissions made on behalf of the parties and taking into consideration the 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 28.03.2023, passed by learned Special Judge SC/ST (POA) Act, Samastipur, in ABP No. 961 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 Special Judge SC/ST (POA) Act, Samastipur, in connection with C.R. No. 314 of 2021 arising out of Samstipur (M) Police Station Case No. 40 of 2021, subject to the condition laid down under Section 438 (2) of the Code of Criminal



Procedure.

(Anil Kumar Sinha, J)

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