

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 611 of 2020

1. Krishna Mahto	
2. Mukesh Mahto @ Mukesh Kumar Verma	
3. Bablu Mahto @ Bablu Kumar VermaAppellants
Versus	
1. The State of Jharkhand	
2. Sumitra DeviRespondents

Coram: **HON'BLE MR JUSTICE RAJESH KUMAR**

For the Appellants	: Mr. Tarun Kumar No. 1, Advocate
For the State	: Mr. Bishambhar Shastri, A. P. P.

The matter was taken up through Video Conferencing. Learned counsels for the parties had no objection with it and submitted that the audio and video qualities were good.

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08/06.09.2021 Heard learned counsel for the appellants and the State.

Nobody appears on behalf of the respondent no. 2-the victim in spite of valid service of notice.

The appellants have preferred this appeal being aggrieved and dissatisfied by the order dated 18.08.2020 passed by learned Additional Sessions Judge-I, Giridih in A.B.P No. 290 of 2020 in connection with SC/ST P. S. Case No. 05 of 2020, whereby the anticipatory bail of the appellants were rejected.

It has been submitted by the learned counsel for the appellants that anticipatory bail is not maintainable, but in the judgment rendered by the Hon'ble Supreme Court in the case of *Hitesh Verma Vs. The State of Jharkhand and Anr.* reported in **2020 (10) SCC 710**, it has been observed that in case of land dispute/ dispute in civil nature, bar of Section 18 of the SC/ST (POA) Act is not applicable and accused may be given benefit of Section 438 of the Cr. P. C.

It has been further submitted that the allegation suggests that the victim has been assaulted in a dispute regarding possession of land bearing Khata No. 09 and Plot No. 132. It has been submitted that the same land belongs to these appellants and in support of that various documents have been annexed showing the rent receipts etc. On the above fact, it has been submitted that just to pressurize these appellants, a false case under the SC/ST (POA) Act has been lodged to settle the civil dispute. On the above facts, these appellants may be granted privilege of anticipatory bail.

Learned counsel for the state has opposed the prayer for anticipatory bail.

Having heard learned counsel for the appellants and the State and on perusal of the records, especially the case diary, it appears that the real dispute

between the parties is a civil dispute over a piece of land and this allegation is offshoot of the civil dispute.

Considering the nature of dispute and the mandate of the judgment rendered by the Apex Court in the case of *Hitesh Verma(supra)*, I am inclined to extend the privilege of anticipatory bail to the appellants. The appellants are directed to surrender in the Court below within four weeks from the date of receipt/production of the copy of this order and in the event of their arrest or surrender, they will be enlarged on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand only) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Giridih in connection with SC/ST P. S. Case No. 05 of 2020 subject to the conditions as laid down under Section 438(2) of the Cr. P. C. and also to the conditions that the appellants will submit self attested copy of their Aadhar Card and also submit their mobile number before the learned court below which they will not change during pendency of the case without prior permission of the court.

Accordingly, the instant appeal is allowed and the impugned order dated 18.08.2020 passed by learned Additional Sessions Judge-I, Giridih in A.B.P No. 290 of 2020 in connection with SC/ST P. S. Case No. 05 of 2020 is, hereby, set aside.

(Rajesh Kumar, J.)

kamlesh/