

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.490 of 2021**

Arising Out of PS. Case No.-169 Year-2020 Thana- BARH District- Patna

1. Swarath Mahto S/o Baitha Mahto R/o village- Mankaura, P.S.- Barh, District- Patna
2. Lalan Mahto @ Lalan Kumar S/o Swarath Mahto R/o village- Mankaura, P.S.- Barh, District- Patna
3. Dayanand Mahto S/o Late Kapil Mahto @ Kapil Dev Prasad R/o village- Mankaura, P.S.- Barh, District- Patna
4. Krishnan Mahto S/o Nand Keshwar Mahto R/o village- Mankaura, P.S.- Barh, District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Appellants : Mr. Bhim Sen Prasad, Advocate  
For the Respondent : Mrs. Usha Kumari No.1, APP

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
ORAL ORDER

2      29-10-2021                      Heard learned counsel for the appellants and learned  
Special Public Prosecutor appearing on behalf of the State.

Appellants are aggrieved by the order dated 09.10.2020 passed by learned Additional District Judge-X-cum-Special Judge SC/ST Act, Patna in connection with Special Case No. 227 of 2020 arising out of Barh P.S. Case No.169 of 2019 registered for the offence under Sections 341, 323, 504, 337/34 of the Indian Penal Code; Section 27 of the Arms Act and Section 3(i)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act whereby the prayer of the



appellants for grant of anticipatory bail has been rejected.

It is submitted by learned counsel for the appellants that the brother of appellant no.3 has filed an FIR earlier in time in which allegations against the prosecution party are that they assaulted the family members of the appellants and they sustained injury. The present FIR has been filed in retaliation to the same.

From reading of the entire FIR it appears that the occurrence has taken place because of a dispute of trivial nature as the cattle of the prosecution party had entered the agricultural land of the appellants and had destroyed the standing crops.

In these circumstances, considering the law laid down by the Supreme Court in the case of *Hitesh Verma vs State Of Uttarakhand* reported in [(2020) 10 SCC 710], this appeal for anticipatory bail of the appellants is held to be maintainable.

Considering the rival submissions of the parties and in view of the law laid down by the Supreme Court in the case of *Hitesh Verma (supra)*, this appeal is allowed. The order dated 09.10.2020 passed by learned Additional District Judge-X-cum-Special Judge SC/ST Act, Patna in connection with Special Case No. 227 of 2020 arising out of Barh P.S. Case No.169 of 2019 registered for the offence under Sections 341, 323, 504, 337/34



of the Indian Penal Code; Section 27 of the Arms Act and Section 3(i)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act is set aside.

Accordingly, let appellants named above, in the event of their arrest or surrender within four weeks from today, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District Judge-X-cum-Special Judge SC/ST Act, Patna in connection with Special Case No. 227 of 2020 arising out of Barh P.S. Case No.169 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

**(Sandeep Kumar, J)**

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