

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1170 of 2018

Arising Out of PS.Case No. -18 Year- 2018 Thana -TAJPUR District- SAMASTIPUR

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1. Nand Kumar Singh, S/o Ramashrya Singh,
2. Sonu Kumar, S/o Dayanand Singh.
3. Sunil Kumar Sharma, S/o Nageshwar Sharma,
4. Gautam Kumar Singh, S/o Sunil Sharma,
5. Ajit Mishr @ Ajit Mishra @ Ajit Kumar Mishra, S/o Late Harishchandr Mishr.
All R/o Village- Malpur (Halai O.P.), P.S.- Tajpur, Distt.- Samastipur.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Harsh Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 10-05-2018

Heard learned counsel for the parties.

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 for anticipatory bail by the learned Additional Sessions Judge-I, Samastipur, in connection with Tajpur (Halai O.P.) Police Station Case No.18 of 2018 registered under Sections 323/34/341/379/384/427/435/504/506 of the Indian Penal Code and Sections 3(i)(r)/3(i)(s)/3(1)(w)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Plot No.965 referred in the FIR is subject matter of Title



Suit No.490 of 2014 wherein appellant No.2 Sonu Kumar son of Dayanand Singh who is one of the plaintiffs and informant of this case who is defendant No.7. By order dated 08.12.2016, the learned trial Judge has ordered temporary injunction in favour of the plaintiffs of the suit till disposal of the suit vide Annexure-3. Thereafter, the present FIR has been lodged for the occurrence dated 12.01.2018 alleging therein that the appellants and others variously armed came at the said land, dragged the informant on the ground and committed abuse and assault by taking caste name.

Submission of the learned counsel for the appellants is that in the background of the allegation and bona fide claim of the appellants, the chances of mala fide prosecution cannot be completely ruled out at least for the purpose of consideration of this prayer for anticipatory bail.

Learned counsel for the informant opposed the prayer on the ground that the allegation is specific against the appellants and offence is made out. Hence, bar under Section 18 of the Act is attracted.

Considering the background of the allegation and the judicial order in favour of the appellants by a competent Court, apparently the present criminal prosecution suffers from mala fide for the purpose of consideration of this prayer for anticipatory bail.



Hence, let the appellants, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	
CAV DATE	NA
Uploading Date	
Transmission Date	

