

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3032 of 2018

Arising Out of PS. Case No.-3 Year-2018 Thana- SC/ST District- Nawada

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1. Brahamdeo Yadav, Son of Ram Bhajju Yadav,
 2. Suresh Yadav, Son of Ram Bhajju Yadav,
 3. Birendra Yadav, Son of Ram Bhajju Yadav,
 4. Ashok Kumar, Son of Mishra Yadav @ Mishri Yadav,
 5. Mithlesh Yadav, son of Ramdev Yadav,
 6. Naresh Yadav, Son of Ram Dev Yadav. All are R/o Telhatta Dhamali, P.S. Kawakol, Dist.- Nawada.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pramod Kumar Verma
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 03-12-2018

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 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 24.07.2018 in A.B.P. No. 1074 of 2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Nawada in connection with Nawada (Pakaridayal) SC/ST P.S. Case No. 03 of 2018 registered under Sections 147, 148, 149, 341, 323, 307, 504, 506, 379 of the



Indian Penal Code as well as Sections 3(i)(r) of the SC/ST Act.

There is *bona fide* land dispute between the parties for the reason that both sides have purchased different area in the same plot. The FIR would reveal that land dispute is the reason behind occurrence of assault committed by the named accused persons including the appellants. Specific allegation against appellant no. 1 Brahamdeo Yadav is that he assaulted with *gandasa* at the head of the informant. The Doctor has found laceration at the head of the informant.

Since appellant no. 1 Brahamdeo Yadav had knowledge that his act might cause death, I am not inclined to enlarge him on anticipatory bail. Hence, his prayer for anticipatory bail is refused. However, in the event of surrender of appellant no. 1 Brahamdeo Yadav before the court below, prayer for regular bail shall be considered without being prejudiced by this order.

There is allegation of commission of assault with *Khanti* at the head of Ajeet Kumar by appellant no. 3 Birendra Yadav.

However, the Doctor has not found any cut injury on the person of Ajeet Kumar. Hence, the injury report does not corroborate the allegation of the prosecution.



Considering the land dispute between the parties, chances of *mala fide* prosecution of other appellants is there. Hence, let the **appellant nos. 2 to 6**, 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 anticipatory bail on furnishing bail bonds of Rs.20,000/- (rupees 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 appellant nos. 2 to 6 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 appellant nos. 2 to 6 as well as condition that both the bailors shall be resident of the territorial jurisdiction of the learned court below.

Accordingly, this appeal is **partly dismissed** and **partly allowed**.

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
CAV DATE	N.A.
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