

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3195 of 2018

Arising Out of PS. Case No.-213 Year-2015 Thana- UJIYARPUR District- Samastipur

1. Peetambar Rai
2. Amit Kumar Rai @ Amit Rai
3. Amarjeet Rai All Sons of Bhola Rai All residents of Village-Paroria, P.S. Ujarpur, District Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arvind Kumar, Advocate

For the Respondent/s : Mr. Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-12-2018

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 against the refusal of prayer for anticipatory bail vide order dated 23.02.2018 passed by the learned Additional Sessions Judge-I, Samastipur, in A.B.P. No.71 of 2018, arising out of Ujarpur Police Station Case No.213 of 2015, registered under Sections 341/323/379/406/420/504/506/34 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The FIR would reveal that the entire allegation of taking loan from the informant and commission of abuse and assault when the loan amount was demanded back is against co-accused Amresh



Rai. In the bottom of the FIR name of the appellants has been added as miscreants.

It is evident that the statutory provisions of the SC/ST (POA) Act takes no care of, frivolous and fictitious cases lodged with malice to take revenge or to harass the adversary while making provisions that anticipatory bail applications would not be maintainable even under Section 438 Cr.P.C. There is no safeguard for the cases wherein no material comes against the accused to substantiate allegation of offence under the provisions of the SC/ST (POA) Act or where the FIR itself does not disclose the commission of offence under the SC/ST (POA) Act, rather discloses a bald allegation with some strong motive behind it. There is no provision to protect the fellow accused from going to jail where there is no evidence to substantiate the allegation.

In such circumstances, the Court cannot be oblivious to protect such victim from being sent to jail, especially, when the Constitution confers power under Articles 226 and 227 of the Constitution of India to pass any order to protect the right and to secure the ends of justice or to prevent the abuse of process of the law. The protective provision is there under Section 482 Cr.P.C. also and the same powers can be exercised when exercising appellate jurisdiction.

Considering the aforesaid facts, 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	NAFR
CAV DATE	NA
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