

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3491 of 2018

Arising Out of PS. Case No.-42 Year-2017 Thana- KADWA District- Katihar

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1. Phuleshwar Bishwash, S/o Late Narayan Bishwash,
 2. Suneel Sah @ Suneel Kumar Sah, S/o Sri Gaur Chandra Sah @ Gaur Sah,
 3. Jiwach Sah, S/o Sri Gaur Chandra Sah @ Gaur Sah,
 4. Ranjeet Sah @ Ranjeet Kumar Sah, S/o Sri Gaur Chandra Sah @ Gaur Sah, All are Residents of Mohalla- Bhogao, P.S.- Kadwa, District- Katihar.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhay Kumar Singh
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 06-12-2018

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 07.08.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Katihar in A.B.P. No.67 of 2018, arising out of Kadwa Police Station Case No.42 of 2017 registered under Sections 341, 323, 354, 379 of the Indian Penal Code and Sections 3 (1) (5) W(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Appellant No.2, *Suneel Sah @ Suneel Kumar Sah* has already been arrested in the case. Hence, his prayer for anticipatory bail has become infructuous now.

Wife of appellant No.1 *Phuleshwar Bishwash* had lodged Kadwa Police Station Case No.322 of 2016 dated 27.12.2016 against the brother-in-law of the informant of this case and for that reason the present F.I.R. was lodged for the occurrence dated 01.01.2017 on 05.01.2017 as complaint case and thereafter, registered as Police case on 03.03.2017. He further submits that offences of the Indian Penal Code alleged are bailable.

Considering the background of allegation, chances of mala fide prosecution cannot be ruled out for the purpose of consideration of prayer of anticipatory bail. Hence, let the remaining appellants i.e., appellant No.1, *Phuleshwar Bishwash*, petitioner No.3, *Jiwach Sah* and petitioner No.4, *Ranjeet Sah @ Ranjeet Kumar Sah*, 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/- (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 conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition



that the appellants shall fully co-operate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bonds of the appellants.

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

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
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