

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.2560 of 2018

Arising Out of PS. Case No.-9 Year-2017 Thana- SC/ST District- Saharsa

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1. Birendra Narayan Jha, Son of Late Triveni Jha,
 2. Sonu Kumar, Son of Birendra Narayan Jha, Both resident of Village- Khajuri, P.S.- Bakhtiyarpur, District- Saharsa.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pramod Mishra

For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 18-08-2018

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 04.06.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, In-charge, Saharsa in A.B.P. No.208 of 2018, arising out of S.C./S.T. Police Station Case No.09 of 2017 registered under Sections 341, 323, 504, 379, 353, 384, 506/34 of the Indian Penal Code and Section 3 (1)(r)(s)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellant No.1, *Birendra Narayan Jha* is an Assistant Teacher in the same school where informant of this case is a



Headmaster. Appellant No.2, *Sonu Kumar* is son of appellant No.1. Appellant No.1 and others had filed an allegation petition against the informant of this case to the District Education Officer vide *Annexure-3*. On that petition, an enquiry was set-up by the District Education Officer by his order dated 11.11.2016 vide *Annexure-4*. The informant was noticed on 18.11.2016 vide *Annexure-4 series*. The notice revealed that allegation was that the Headmaster was torturing the students to pay illegal money.

In the aforesaid background, allegation in the F.I.R. is that the appellants by putting the informant in fear of death committed abuse and assault by taking caste name rather started tying the neck with a cloth with intent to commit his murder. Further allegation is of commission of theft of Rs.10,000/- (Rupees Ten Thousand).

Learned counsel for the informant opposed the prayer for anticipatory bail on the ground that the appellants have got criminal antecedents, which they have stated in para-3 of the bail petition. Para-3 reveals that the cases are of trivial nature.

Considering the background of allegation, which is complaint of the appellants earlier filed against the informant, chances of mala fide prosecution cannot be ruled out. Hence in my view, the appellants deserve anticipatory bail. Therefore, 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/- (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	
CAV DATE	
Uploading Date	
Transmission Date	

