

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1588 of 2019

Arising Out of PS. Case No.-3 Year-2019 Thana- NTPC District- Patna

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1. Bhagirath Yadav Son of Late Nande Yadav Resident of Village- Dhibar Chaklapar, P.S.- NTPC, District- Patna.
 2. Kanhaiya Yadav Son of Late Nande Yadav Resident of Village- Dhibar Chaklapar, P.S.- NTPC, District- Patna.
 3. Pankaj Yadav S/o Bhagirath Yadav Resident of Village- Dhibar Chaklapar, P.S.- NTPC, District- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Prem Ranjan Kumar
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

6 09-08-2019 Learned counsel for the appellants seeks permission to withdraw this appeal on behalf of the appellant no. 1 (Bhagirath Yadav) submitting that he has been arrested during pendency of the appeal.

Permission is granted.

Accordingly, this appeal is dismissed as withdrawn in respect of the appellant no. 1.

Heard learned counsel appearing on behalf of the appellant nos. 2 and 3 and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act against the refusal of prayer of anticipatory bail vide order dated 06.02.2019 passed by learned Special Judge, SC/ST (PoA) Act, Patna in NTPC P.S. Case No. 3 of 2019 registered under Sections 341, 323, 427, 504, 506/34 of the Indian Penal Code and Sections 3(i)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellants along with co-accused, namely, Bhagirath Yadav are said to have been tying the cattle on the passage of the informant, and on protest made by the informant, the appellants and co-accused Bhagirath Yadav intruding into her house assaulted her husband and sons by means of lathi, danda and khanti and made them injured and slated the informant in the name of her caste. They also damaged her wall, hearth and rickshaw.

It is submitted by learned counsel appearing on behalf of the appellant nos. 2 and 3 that no such occurrence as alleged ever took place. They have been falsely implicated in this case. As a matter of fact, the appellants are the next door neighbour of the informant and there is dispute regarding passage to their house, which was decided in the Panchayati and both parties had to leave 5 feet each for the passage but being



peeved with the aforesaid verdict of the Panches, the informant has got false and frivolous case lodged against the appellants. There is case and counter case between the parties. None has sustained injury in the occurrence. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Slating the informant is said to have been made inside the house of the informant and not in the public view, hence, no offence under SC/ST Act is made out against the appellants.

Per contra, learned Spl. P.P. for the State opposing the bail prayer of the appellants submitted that the appellants have slated the informant in the name of her caste, assaulted her and her family members and damaged her property. Moreover appellant no. 2 Kanhaiya Yadav has criminal antecedent as altogether four criminal cases have been lodged against him, hence, he does not deserve anticipatory bail.

In the facts and circumstances of the case, I am not inclined to enlarge the appellant no. 2 (Kanhaiya Yadav) on bail. Accordingly, his prayer is rejected.

However, appellant no. 2 is directed to surrender before the court below within six weeks and seeks regular bail and learned court below shall pass order on the very date of his surrender in accordance with law considering the facts and



circumstances of the case without being prejudiced by this order.

So far as the appellant no. 3 is concerned, he is directed to be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (PoA) Act, Patna in NTPC P.S. Case No. 3 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, this appeal is disposed of.

(Prakash Chandra Jaiswal, J)

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