

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2152 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- BRAHMPUR District- Buxar

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1. Mangala Nand Tiwari (Male 52 years) son of late Dhirja Tiwari.
 2. Ashutosh Tiwari @ Ashutosh Kumar Tiwari (Male 30 years) son of Ramji Tiwari.
 3. Mintu Tiwari @ Manish Kumar Tiwari (Male 35 years) son of Yogendra Tiwari.
 4. Kamlanand Tiwari (Male 42 Years) son of late Dhirja Tiwari.

Appellants no. 1 to 4 are resident of village Badaki Nainijor P.S. Nainijor (Barahampur) Dist. Buxar

	Versus	 Appellant/s
The State of Bihar		 Respondent/s

Appearance :

For the Appellant/s	:	Mr.Bhavesh Kumar, Advocate
For the Respondent/s	:	Mr.Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 27-05-2019 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners have filed the instant application apprehending their arrest in connection with Barahampur (Nainijor) P.S. Case No. 9 of 2018 corresponding to SC & ST Case No. 13 of 2018 registered under Sections 323, 504 and 506 besides other sections of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as ‘the SC & ST Act’)

The petitioners moved the Court of learned Additional District and Sessions Judge 1st-cum- Spl. Judge, Buxar for bail



in ABP No. 426 of 2019. However, the same was rejected by order dated 02.05.2019. As such petitioners have preferred appeal under Section 14A(2) of the SC & ST Act.

It has been contended on behalf of the petitioners that as a result of earlier enmity, taking advantage of SC & ST Act, a concocted story has been made by the informant for which the informant has submitted an application dated 27.02.2017 before the S.P. Buxar and also there is no medical evidence in support of the allegations made by him. Further there is no specific averment with respect to the overt act by any of the petitioners.

Application has been opposed by the learned APP appearing for the State.

After hearing the parties and going through the records of the case, it transpires that the instant case is one registered under the SC & ST Act in which not only charge sheet has been submitted but cognizance has also been taken. In view of these facts, I am not inclined to enlarge the petitioners on anticipatory bail and as such so far as their application for grant of anticipatory bail is concerned as contained in the instant appeal, the same is rejected. The petitioners are directed to surrender before the learned Court below within a period of six weeks from today. In case the petitioners surrender within the



aforesaid period, their application for regular bail shall be considered in light of judgment of this Court in the case of **Mahindra Prasad vs. The State of Bihar** reported in 2004 (3) **PLJR 491** and the same shall be disposed off preferably, on the same day. Petitioners shall be at liberty to raise all other points that have been raised here.

(Partha Sarthy, J)

Prakash/-

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