

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2246 of 2019

Arising Out of PS. Case No.-86 Year-2018 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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Pravin Kumar Sinha Son of Late Lallan Bihari Verma Anchaladhikari, Goraul,
District- Vaishali, Permanent Resident of 110, Jayprakash Lane No. 11, Near
Khadi Bhandar Chauk, Shastri Nagar, Muzaffarpur, Ramna, Bihar - 842002

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Paswan Son of Basudeo Paswan Resident of Village - Mahamadpur
Pojha, P.S.- Goraul, District- Vaishali

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ravindra Kumar Shukla
For the Respondent/s : Mr.Usha Kumari 1

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 03-06-2019 Heard learned counsel for the appellant and learned APP
for the State.

The appellant has filed the instant application for anticipatory bail apprehending his arrest in connection with Complaint Case No. C1-86 of 2018 registered for the offences under Sections 323,504 of the Indian Penal Code and Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act., 1989 (hereinafter referred to as 'the SC/ST Act').

The allegation as per the complaint filed by the ward member is that the Rajaswa Karamchhari of the Panchayat had not been coming to the office for the last six months and instead



was meeting the people outside and was taking a larger amount than the rent fixed. It is alleged that when the complaint of the said act was made before the petitioner, the petitioner started to abuse the complainant in the name of his caste and threatened him. Thereafter, it is alleged that he gave 3-4 slaps as a result of which the complainant fell down and became unconscious. On regaining consciousness he learnt that the Rajaswa Karamchari was a relative of the petitioner and both of them were supporting each other.

It is submitted by learned counsel for the appellant that after enquiry the learned court below has been pleased to take cognizance for the offence under Sections 323 and 504 of the Indian Penal Code and Section 3(1) (x) of the SC/ST Act. It is further submitted by learned counsel for the appellant that the instant complaint is baseless and mala fide act on part of the complainant. It was on 03.08.2018 vide Annexure 2 that the appellant had filed a sanha before the Officer-in-Charge of Goraul Police Station stating about the threats being given to him to implicate him in a case under SC/ST Act. It is further submitted that the appellant on 04.08.2018 (Annexure 3 to the application) wrote an application/representation to the District Magistrate, Vaishali about the threats given by the local



representatives as also the Mukhiya that they would get the appellant implicated in a case under the SC/ST Act'. It is submitted that the apprehension of the appellant as stated in his letter/representation dated 03.08.2018 and 04.08.2018 addressed to the officials came true when he learnt about the Complaint Case No. 86 of 2018 on 24.12.2018 filed by the complainant. The allegations contained in the complaint are besless, false and it is for this reason the complainant did not lodge an FIR. It is further submitted by learned counsel for the Appellant that in the case of **Dr. Subhash Kashinath Mahajan v. State of Maharashtra** reported in **(2018) 6 SCC 454**, in paragraph 79.2 thereof the Hon'ble Apex Court has concluded/held that there is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie mala fide. It is submitted that from the facts stated in the instant application, it is a clear case of mala fide prosecution by the complainant.

Learned Additional Public Prosecutor appearing for the State opposes the application stating that there is a direct allegation against the appellant in the complaint and that the instant application is not maintainable.



Having heard the learned counsel for the appellant and the learned APP for the State, taking into consideration the facts and submissions as stated herein above, the appellant above named, in the event of his arrest or surrender in the court below within a period of six weeks from today in connection with Complaint Case No. C1-86 of 2018 is directed to be enlarged on bail on furnishing bail bond of Rs 10,000.- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-cum-Special Judge, Hajipur, Vaishali subject to the conditions as laid down in Section 438 (2) of Criminal Procedure Code.

It may further be stated that none of the observations made in the instant application will be used by either of the parties at any subsequent stage in the case.

The appeal is allowed.

(Partha Sarthy, J)

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