

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2337 of 2019**

Arising Out of PS. Case No.-42 Year-2018 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Nasim Khan @ Nasimuddin Khan @ Nasimuddin Ahmad Khan Son of Late Aasin Khan Resident of Village- Bania Baraun, P.S.- Sherghati, District- Gaya.
 2. Nasruddin Khan @ Nasruddin Ahmad Son of Late Aasin Khan Resident of Village-Bania Baraun, P.S.-Sherghati, District-Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Tiru Manjhi @ Sahdeo Manjhi Son of Tulsi Manjhi Resident of village - Bania Baraun, Manjhi Tola, P.S.- Sherghati, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shivendra Prasad
For the Respondent/s : Mr. Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 15-07-2019 Heard learned counsel for the appellants 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 24.04.2019 passed by learned Exclusive Special Judge, SC/ST, Gaya in Complaint Case No. 42 of 2018 registered under Sections 147, 148, 149, 504, 448, 380, 436 of the Indian Penal Code and Section 3(i)(r)(s)(g) and 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Appellants along with two other accused persons arrived at the house of complainant armed with weapons and slating him intruded into his house and slating him in the name of his caste asked him to vacate the land. They also threw his household articles and dragged out his wife holding her hair and took away Rs. 12000/- from the box of his daughter-in-law and set ablaze his house by sprinkling petrol taking from the tempo, resultantly, his house and household articles burnt to ashes.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. They have been falsely implicated in this case. Allegation levelled against the appellants is not specific rather general and omnibus in nature. As a matter of fact, the complainant has constructed the house over *gair majura* land in front of the house of the appellants obstructing their passage. Regarding the same, the appellants have made complaint to *Anchala Adhikari* and proceeding under Section 144 Cr.P.C. has also been initiated at the instance of the appellants. Earlier, the complainant has lodged FIR regarding the same occurrence and after investigation of the case, I.O. submitted final form finding the case untrue. Then, the complainant lodged protest petition. Allegation of slating the complainant in the name of his caste is



said to have been made inside the house of the complainant and not in the public view, hence, no offence under SC/ST Act is made out against the appellants. Earlier, during the course of investigation, I.O. had not found any house or household articles burnt at the place of occurrence. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, let the above named appellants be released on bail, in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned learned Exclusive Special Judge, SC/ST, Gaya in connection with Complaint Case No. 42 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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