

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2458 of 2019

Arising Out of PS. Case No.-249 Year-2018 Thana- RAJAOLI District- Nawada

1. Khushu Khan @ Md. Khushnawaz Khan Son of Hasim Khan Resident of Village - Bhupatpur, P.S.- Rajauli, Dist.- Nawada.
2. Meraj Khan Son of Hasim Khan Resident of Village - Bhupatpur, P.S.- Rajauli, Dist.- Nawada.
3. Hasim Khan Son of Late Hudu Khan Resident of Village - Bhupatpur, P.S.- Rajauli, Dist.- Nawada.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar

For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 05-08-2019 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 27.04.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, Nawada in Rajauli P.S. Case No. 249 of 2018 registered under Sections 341, 323, 504/34 of the Indian Penal Code and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

While the informant was standing at the shop of Anandi Prasad, all the appellants arrived there and started slating him. On quizzing about reason of slating, appellant Hasim Khan slating him in the name of his caste exhorted other



two appellants to assault him. Whereupon, the other two appellants, namely, Meraj Khan and Khushu Khan assaulted him.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. There is no motive assigned behind the alleged occurrence in the written report. There is no allegation of slating the informant in the name of his caste against the appellant nos. 1 and 2. None has sustained injury in the occurrence. Appellants have been falsely implicated in this case as the appellant Hasim Khan happens to be Ex-Panch of his ward, who had warned the informant for running business of illicit liquor. Appellants have no criminal antecedent.

On the other hand, learned Spl. P.P. for the State opposing the bail prayer of the appellants submitted that there is specific allegation against appellant no. 3 Hasim Khan of slating the informant in the name of his caste in the public view, hence, SC/ST Act is made out against him and anticipatory bail is barred by Section 18 of the said Act.

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

Having regard to the facts and circumstances of the



case, I am not inclined to enlarge the appellant no. 3 on bail. Accordingly, his prayer is rejected.

However, appellant no. 3 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 surrender by the said appellant in accordance with law considering the facts and circumstances of the case without being prejudiced by this order.

So far as the appellant nos. 1 and 2 are concerned, they are directed to 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 1st Addl. Sessions Judge cum Special Judge, Nawada in connection with Rajauli P.S. Case No. 249 of 2018, 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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