

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2600 of 2019

Arising Out of PS. Case No.-5 Year-2019 Thana- ARWAL MAHILA District- Jehanabad

1. KAMLESH SAO Son of Late Tetar Sao Resident of Village- and P.O-Rampur Chauram, District- Arwal.
2. Awadhesh Sao Son of Late Tetar Sao Resident of Village and P.O-Rampur Chauram, District-Arwal.

... .. Appellant/s

Versus

The State of Bihar..... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ranjay Kumar Singh
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 01-08-2019 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

This is an appeal under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 26.4.2019 passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/ST (POA) Act, Jehanabad in connection with Arwal Mahila P.S. Case No. 5 of 2019, registered under Sections 323, 341, 504, 354B/34 of the Indian Penal Code and Section 12 of POCSO Act and also under Section 3 (12) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



While informant had gone for defecation, co-accused Rajesh Kumar and Vikash Kumar caught hold her and muffling her face shoved her in the wheat field and tried to outrage her modesty and on protest made by her they assaulted her and made good their escape slating her in name of her caste on arrival of her mother. When mother of the informant complained the matter with appellants they also slated her in the name of her caste and assaulted her.

It is submitted by the learned counsel for the appellants that no such occurrence as alleged ever took place. As a matter of fact, there was quarrel between the children and over said quarrel prosecution party assaulted one Shyam Suder Devi. Regarding the said occurrence wife of Awadesh Sah namely Gulabiya Devi lodged Rampur Chauram P.S. case no. 19 of 2019 against the mother of the informant and others and learning about the filing of the aforesaid case the informant has lodged this false and frivolous case against the appellants and other to save skin from the said case. No one sustained any injury in the occurrence. There is inordinate delay of three days in lodging the FIR without assigning any plausible explanation for the same. The allegation levelled against the appellants is not specific rather general and



omnibus in nature. There is no allegation of slating the informant in the specific name of her caste against the appellants. They have no criminal antecedent. Two co-accused persons namely Rajesh Kumar and Vikash Kumar have been enlarged on anticipatory bail by this Court in Criminal Appeal (SJ) No. 2554 of 2019 vide order dated 29.7.2019.

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

In the facts and circumstances of the case, the above named appellants are directed to be enlarged on bail in the event of their arrest or surrender before the learned Court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum- Special Judge SC/ST (POA) Act, Jehanabad, in connection with Arwal Mahila P.S. Case No. 5 of 2019, subject to 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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