

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 3453 of 2019

Arising Out of PS. Case No.-206 Year-2019 Thana- SONEPUR District- Saran

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1. NISHA DEVI Wife of Satrudhan Sah Resident of Village - Kasmer, P.S.- Sonpur, District - Saran
 2. Sushila Devi Wife of Shiv Ji Sah Resident of Village - Kasmer, P.S.- Sonpur, District - Saran
 3. Jitu Kumar Son of Shiv Ji Sah Resident of Village - Kasmer, P.S.- Sonpur, District - Saran
 4. Guddu Kumar Son of Shiv Ji Sah Resident of Village - Kasmer, P.S.- Sonpur, District - Saran
 5. Basanti Devi Wife of Shiv Ji Sah Resident of Village - Kasmer, P.S.- Sonpur, District - Saran
 6. Satrudhan Sah Son of Shiv Ji Sah Resident of Village - Kasmer, P.S.- Sonpur, District - Saran

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Shivpatiya Devi Wife of Ramashraya Rai Resident of Village - Kasmer, P.S.- Sonpur, District - Saran

... .. Respondent/s

For the Appellant/s	:	Mr N K Agrawal, Sr Advocate with Mr Vijay Anand, Ms Preety Kunwar, Advocates
For the S t a t e	:	Ms Usha Kumari No 1, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

3 11-12-2019 Heard learned Senior Counsel for the appellants and the learned APP for the State.

Appellants seek bail in a case registered under Sections 448, 323, 379, 504/34 of Indian Penal Code and Sections 3 (ii) (R) (F) (W) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for brevity, SC/ST Act).

Learned Senior Counsel for the petitioners submits that from bare perusal of the allegations made in the first



information, it is apparent that the same, which is dated 24.03.2019, has been lodged in respect of alleged occurrence of 25.02.2019. The delay itself is proof of the fact that the FIR is intended with mala fides. He also refers to the fact that the parties are on litigating terms since before in relation to a land dispute. It is further pointed out that the provisions of the SC/ST Act have been applied by the police though the allegations do not disclose as to who has uttered the offensive insinuation against the informant and/or against which member of the family of the informant. In absence of any specific allegation against any accused, the offence under Section 3 (1) (R) of the SC/ST Act would not be made out. In fact, there is no allegation whatsoever to sustain the application of Section 3 (1) (F) of the SC/ST Act which, without any basis, has casually been applied by the police in the first information report (for brevity, FIR) itself. There is no public view alleged and the offences alleged in the FIR primarily do not constitute the ingredients of the SC/ST Act, and no offence is made out under the said Act.

Learned APP for the State has submitted that in view of the bar of pre-arrest bail under Section 18 of the SC/ST Act, prayer of appellants for bail should be rejected.

In view of the law laid down by the Apex Court in the



case of Vilas Pandurang Pawar -Versus- State of Maharashtra, (2012) 8 Supreme Court Cases 795, for the limited purpose of consideration for grant of anticipatory bail, this Court is inclined to accept the submission advanced by learned Senior Counsel for the appellants.

Let the appellants above named be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Saran in Sonapur Police Station Case No 206 of 2019 subject to the following conditions:

(1) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellants. The bailor will also undertake to inform the Court if there is any change in the address of the appellants.

(2) That the appellants will be well represented on each date and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled.

(Madhuresh Prasad, J)

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