

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4450 of 2019

Arising Out of PS. Case No.-27 Year-2019 Thana- COMPLAINT CASE District- Kishanganj

ANIL KUMAR BADLANI @ ANIL BADLANI Son of Narshing Das
Badlani Resident of and 039Eand039 Block, Flat No.06, Sindhi Society
26/1A S.N. Roy Road, Police Station-Behala, District-Kolkatta(West Bengal).
... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Upendra Paswan Son of Charitar Paswan Resident of Khagra, P.S-
Kishanganj, District-Kishanganj.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-12-2019 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the complainant who has appeared suo motu.

The instant appeal under section 14A(2) of the SC and
ST (Prevention of Atrocities) Act has been preferred against the
rejection of appeal of the appellant vide order dated 06.09.2019
passed in A.B.P. no. 42 of 2019/Spl. (SC/ST) 45 of 2019 arising
out of Complaint Case no. C27 of 2019 for offence under
section 406 of the Indian Penal Code and section 3(i)(r)(s)(u)(v)
of the SC/ST (Prevention of Atrocities) Act.

From perusal of Vakalatnama of the complainant, it
transpires that the same was executed on 16.09.2019 and was
filed on 16.10.2019.

As per the allegation in the complaint, an altercation



took place between the complainant, the accused person, who is the appellant herein and 3-4 other persons. It is stated that on the complainant asking for his charges for labour work that he had done for the appellant, the appellant asked him to come on another date and again on his asking, the appellant became angry and on his order, the complainant was assaulted, abused in the name of his caste and was given slaps. It is further stated that on the intervention of others, he got saved.

It is submitted by learned counsel for the appellant that occurrence is said to have taken place on 30.06.2019, but the complaint was lodged on 03.07.2019 without any explanation for the delay. It is further submitted that from perusal of the complaint, it would transpire that allegations have been levelled against the appellant as also 3-4 other persons, who are said to have assisted the appellant but the complaint has been filed solely against this appellant with the allegations which are not correct. It is submitted that there is no mention in the complaint with respect to Rule 5 of the SC/ST Rules. There is no mention of the amount which was given to the complainant nor there is any explanation for the delay. It is further submitted that the complainant is a resident of Kolkata where he carries on his business and in support of his



submissions, a supplementary affidavit has also been filed bringing on record, besides other documents, the copies of the photographs from the CCTV video footage of the apartment in which the appellant resides showing that on the alleged date of occurrence, the appellant was in Kolkata and not in Kishanganj as alleged in the complaint.

It is submitted on behalf of the complainant that the complainant is a labourer and he does labour work and the accused, who is a businessman, had engaged him for doing the work but he did not pay the amount due. On the complainant asking for his amount due to him, the complainant abused him in the name of his caste and also assaulted him. It is further submitted that the application for anticipatory bail would not be maintainable in a case registered under the SC/ST (Prevention of Atrocities) Act. It is further submitted that the accused person even if living in Kolkata, can come to the place of occurrence by flight and return the same day. The complainant further relies on certain documents stating that it was as a result of the threat given by the appellant that subsequently the complainant died. However, those documents have not been brought on record, by way of affidavit.

Having heard learned counsel for the parties and



taking into consideration the facts and circumstances of the case including the decision of the Apex Court in the case of Dr. Subhash Kashinath Mahajan Vs. State of Maharashtra reported in 2018(6) SCC 454, the nature of allegations made, the delay in lodging of the complaint and not implicating the other four persons about whom narrations have been made in the body of the complaint, the Court is inclined to enlarge the appellant on bail. The appellant is directed to surrender in the court below within a period of six weeks from today and in the event of his arrest or surrender, he shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge 1st-cum-Spl. Judge, Kishanganj in connection with Complaint Case no. C27 of 2019, subject to the condition as laid down under section 438(2) of the Cr.P.C.

It is further directed that the appellant shall cooperate in court below in course of trial.

(Partha Sarthy, J)

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