

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4881 of 2019

Arising Out of PS. Case No.-12 Year-2018 Thana- COMPLAINT CASE District- Kishanganj

1. Dropadi Devi Wife of Raj Kumar Jaiswal Residing at Near Registry Office Bhimbalish, P.S.- Thakurganj, District- Kishanganj
2. Kudhanu Lal Ganesh @ Kuthanu Lal Ganesh Son of Kusum Lal Ganesh Resident of Village - Baleshwar Pharam Dangi Bari, Ward No. 14, P.S.- Thakurganj, District- Kishanganj
3. Anita Devi Wife of Kudhanu Lal Ganesh @ Kuthanu Lal Ganesh Resident of Village - Baleshwar Pharam Dangi Bari, Ward No. 14, P.S.- Thakurganj, District- Kishanganj
4. Asha Devi Wife of Lalu Mahto Resident of Village - Baleshwar Pharam Dangi Bari, Ward No. 14, P.S.- Thakurganj, District- Kishanganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Rabina Devi Wife of Suraj Banjara Resident of Village - Baleshwar Pharam Dangibari, Ward No. 14, P.S.- Thakurganj, District- Kishanganj

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

3 16-12-2019 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 30.09.2019 in connection with Complaint Case No.C12 of 2018, Special Case No.40 of 2019 in ABP No.53 of 2019 by the learned Additional District & Sessions Judge-I-cum-Special Judge, Kishanganj under Sections 323, 384, 504 and 506 of the Indian Penal Code and Sections 3(i)(c) (f)(g) and



(s) of SC/ST Act.

The complaint based allegation reveals that the complainant was not present on the spot of occurrence dated 23.09.2017. She learnt about the occurrence from one Kuthani Devi. Kuthani Devi in her statement in Court is not specific as to who had committed the occurrence of damaging the house of the complainant on 23.09.2017. In the occurrence dated 03.012.2017 which took place in the night, allegation is general and omnibus that the accused persons, variously armed, came to her house and asked her to vacate the land house, failing which, they would put it on fire. The accused persons also demanded Rs.1,00,000/-. Since no specific allegation is there against any of the appellants disclosing commission of offence under the SC/ST Act, the appellants deserve anticipatory bail. The court below did not consider the lack of evidence while refusing the prayer for anticipatory bail.

The prayer for anticipatory bail is not maintainable only when allegation of commission of offence under the provisions of SC/ST Act is *prima facie* there.

Hence, let the above named appellants, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released



on anticipatory bail on furnishing bail bond of Rs.20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and further the appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

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

(Birendra Kumar, J)

B.Kr./-

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