

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.187 of 2020

Arising Out of PS. Case No.-13 Year-2019 Thana- SC/ST District- Supaul

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1. UMESH SWARNKAR Son of Late Rameshwar Swarnkar Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.
 2. Sanoj Swarnkar Son of Late Bhagvat Swarnkar Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.
 3. Manoj Swarnkar Son of Late Bhagvat Swarnkar Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.
 4. Ganesh Swarnkar Son of Late Rameshwar Swarnkar Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.
 5. Soti Mukhiya Son of Rama Mukhiya Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.
 6. Durbal Mukhiya Son of Rama Mukhiya Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.
 7. Sharwan Swarnkar Son of Shibu @ Shivrindan Swarnkar Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.

... .. Appellant/s

Versus

1. The State of Bihar
2. Gita Devi Wife of Mangain Sada Resident of Village - Katahara, P.S.- Kishanpur, District - Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Madhav Jha
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the appellants, Sri Binay Krishna and the learned Spl.P.P. for the State.



The present appeal has been preferred under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer of anticipatory bail vide order dated 16.08.2019, passed by the learned Additional Sessions Judge 1st-cum-Special Judge, Supaul in anticipatory bail petition no. 827 of 2019, arising out of Supaul SC/ST PS case no. 13 of 2019 under Sections 341, 342, 323, 354B, 379, 504/34 of Indian Penal Code and 3(1)(a)(r)(s)(vi) of SC/ST Act.

The case of the prosecution in brief according to the informant is that when she had gone to ease herself behind her house on 26.03.2019 at about 6 am in the morning, the petitioner no. 4 had engaged in eve-teasing whereupon the informant is stated to have raised an alarm, however the other appellants had then arrived there and had not only assaulted her but also had abused her by taking her caste name.

The learned counsel for the appellants has submitted that the appellants are innocent, have been falsely implicated in the present case and are having clean antecedent. The learned counsel for the appellants has further submitted that the present case arises out of case and counter case and the fact is that the informant has not disclosed in her *fardbeyan* as to



what type of abusive caste specific name was used, hence a general and omnibus allegation has been levelled against the appellants herein, thus no offence is made under the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Per contra, the learned Spl.PP for the State vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the fact that the present case arises out of case and counter case, counter case having been filed by the wife of appellant no. 4 and moreover, a general and omnibus allegation has been levelled against the appellants herein as also no specific caste name used by the appellants, has been disclosed in the *fardbeyan* of the informant, I find that no offence is made out under the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, hence I deem it fit and proper to admit the appellants to the privilege of anticipatory bail. Accordingly, let the abovenamed appellants, in the event of their arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, be released on



anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st-cum-Special Judge, Supaul in connection with Supaul SC/ST PS case no. 13 of 2019, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

Accordingly, the impugned order dated 16.08.2019 passed by the court of Additional Sessions Judge 1st-cum-Special Judge, Supaul in connection with Supaul SC/ST PS case no. 13 of 2019 is hereby set aside.

The appeal stands allowed.

(Mohit Kumar Shah, J)

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