

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.251 of 2020

Arising Out of PS. Case No.-3 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. SHAMSUL MIAN @ MD. SHAMSUL @ MD. SHAMSUL MIAN Son of Sakul Darji Resident of Village-Saidpur, P.S.-Chakmehsi, District-Samastipur.
 2. Md. Okil @ Md. Vokil Son of Shamsul Mian @ Md. Shamsul @ Md. Shamsul Mian Resident of Village-Saidpur, P.S.-Chakmehsi, District-Samastipur.
 3. Md. Shamshad @ Md. Sadam Son of Shamsul Mian @ Md. Shamsul @ Md. Shamsul Mian Resident of Village-Saidpur, P.S.-Chakmehsi, District-Samastipur.
 4. Md. Mukhtar @ Md. Moktar Son of Shamsul Mian @ Md. Shamsul @ Md. Shamsul Mian Resident of Village-Saidpur, P.S.-Chakmehsi, District-Samastipur.
 5. Md. Alauddin Son of Md. Mansur Resident of Village-Saidpur, P.S.-Chakmehsi, District-Samastipur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Bibha Devi W/o- Surendra Paswan R/o vill- Saidpur Ward no. 11, P.S.-Chakmahesi dist- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dharmendra Kumar Paswan, Adv.
For the Respondent/s : Mr.Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 23-12-2020 Heard the learned counsel for the appellants and Sri Sadanand Paswan, the learned Special P.P. for the State.

At the outset, the learned counsel for the appellants has submitted that the appellants no. 1 and 3 have been arrested, hence the present



appeal qua the appellants no. 1 and 3 is not being pressed.

Accordingly, the present appeal qua the appellants no. 1 and 3 stands dismissed as not pressed.

At this juncture, the learned counsel for the appellants has also submitted that as far as the appellant no. 5 is concerned, he seeks to withdraw the present appeal in order to enable the appellant no. 5 to surrender before the learned court below and seek regular bail.

Accordingly, the present appeal qua the appellant no. 5 stands disposed of as withdrawn with liberty to the appellant no. 5 to surrender before the learned court below and seek regular bail.

This is an appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 11.12.2019 passed by the learned 1st Additional Sessions Judge, Samastipur in Anticipatory Bail Petition No. 3080 of 2019 (arising



out of Complaint Case No. 03 of 2019 registered under Sections 323, 354, 380, 427 of the Indian Penal Code and Section 3(i)(r)(s)(w) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellants for grant of anticipatory bail has been refused.

The case of the prosecution in brief is that the appellants herein, variously armed, had arrived at the house of the complainant with the intention of displacing / breaking the house of the complainant and when the father-in-law of the complainant had protested, the appellants started abusing by using caste specific name as also had misbehaved with the complainant.

The learned counsel for the appellants has submitted that the appellants are innocent, they have been falsely implicated in the present case and they are having clean antecedent. The learned counsel for the appellants has submitted that as far as the allegation of abusing by taking caste specific name is concerned, the same has been



levelled against the appellant no. 1, who has already been arrested and the appellant no. 5 whose prayer for grant of anticipatory bail has already stood withdrawn, as aforesaid, however, as far as the remaining appellants herein are concerned i.e. the appellants no. 2 and 4, there is no allegation of them having abused the informant or her family members by taking their caste specific name, hence, it is submitted that no offence under the provisions of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989 is made out as against the appellants no. 2 and 4. It is further submitted that a general and omnibus allegation has been levelled against the appellants of misbehaving with the complainant.

Per contra, the learned Special P.P. for the State has 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 appellants and taking into account the fact that the main allegation of abusing the informant and others by taking their



caste name is against the appellants no. 1 and 5, as such, as far as the appellants no. 2 and 4 are concerned, prima facie no offence is made out under the provisions of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989 and moreover, a general and omnibus allegation has been levelled against them by the informant, hence, I deem it fit and proper to admit the appellants no. 2 and 4 to the privilege of anticipatory bail.

Accordingly, the appellants no. 2 and 4, above named, are directed to be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Samastipur in A.B.P. No. 3080 of 2019 (arising out of Complaint Case No. 03 of 2019) subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 11.12.2019 passed by the learned 1st Additional



Sessions Judge, Samastipur in Anticipatory Bail
Petition No. 3080 of 2019 (arising out of Complaint
Case No. 03 of 2019) is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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