

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.232 of 2020

Arising Out of PS. Case No.-1575 Year-2015 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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VIJAY KUMAR S/O Late Kalik Kumar @ Kartik Kumar R/O P.S. Motihari
Town, District East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sudhma Hazar Son of Late Moti Dushad R/o Vill Raghunathpur Ward No. 3,
P.S. Turkaulia, Dist. East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Dhannjay Kumar No 2, Adv.
For the State	:	Mr.Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 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 appellant and Sri Binay Krishna, learned Special P.P. for the State.

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 18.12.2019 passed by the learned 1st ADJ Cum Special Judge SC/ST (POA) East



Champaran in Anticipatory Bail Petition No. 3825 of 2019 in connection with SC/ST Trail No. 169 of 2019 arising out of Complaint Case No. 1575 of 2015 registered under Sections 323, 341, 354, 504 of the Indian Penal Code and Section 3(i)(x) of the SC/ST Act, whereby and whereunder the prayer of the appellant for grant of anticipatory bail has been refused.

The complainant in his complaint petition has alleged that he has got 5 katha 7 dhur land at khata no. 205, khesra no. 963, which was given by Jamindar, Rani Ratni Kumari Devi, to the mother of the complainant, namely, Bachchiya Dushadh and the complainant is stated to be in possession of the same as also is stated to have been cultivating the same. It is also stated that at mauza Raghunathpur, separate from the aforesaid land, one other land is situated at khata no. 72, khesra no. 762, which was given by Rani Ratni Kumari Devi to the deceased father of the complainant, which is also being cultivated by the complainant, however, the appellant is pressurizing the



complainant to leave the said land and this is why, the appellant and other accused persons had abused the complainant and his wife at a public place in public view by taking caste specific name and had also assaulted the complainant.

The learned counsel for the appellant has submitted that the appellant is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. It is further submitted, by referring to the complaint petition, that in paragraph no. 5 thereof, it has merely been stated that the complainant's caste name was taken, however, the same has not been specified and moreover, the wife of the complainant has also, in her statement made before the learned Magistrate, not alleged that the appellant had abused them by taking their caste specific name, hence, it is submitted that the provisions of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989 are not attracted in the present case.

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 appellant and taking into account the fact that there is no allegation of any sort of caste specific name being taken by the appellant herein for the purposes of abusing the complainant and his wife, apart from the fact that a general and omnibus allegation has been levelled against the appellant and other accused persons and moreover, the appellant is having a clean antecedent, this Court finds that no offence is made out under the provisions of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989, as far as the appellant is concerned, hence, I deem it fit and proper to admit the appellant to the privilege of anticipatory bail.

Accordingly, the appellant, above named, is directed to be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st ADJ cum Special Judge



SC/ST Act East Champaran at Motihari in connection with SC/ST Tr. No. 169 of 2019 arising out of Complaint Case No. 1575 of 2015 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

Consequently the impugned order dated 18.12.2019 passed by the learned 1st ADJ Cum Special Judge SC/ST (POA) East Champaran in Anticipatory Bail Petition No. 3825 of 2019 in connection with SC/ST Trail No. 169 of 2019 arising out of Complaint Case No. 1575 of 2015 is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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