

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.389 of 2020

Arising Out of PS. Case No.-148 Year-2015 Thana- FATEHPUR District- Gaya

=====

KAMLESH SAO @ KARU SAO, Son of Tota Saw, Resident of Village -
Sila, P.O. - Dhibar, P.S.- Fatehpur, Distt - Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Vishal Saurabh

For the Respondent/s : Mr.Binay Krishna

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 16-12-2020 Heard learned counsel for the appellant and learned
Special P.P. for the State through virtual court proceedings.

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the appellant undertakes to remove the defects as pointed out by the office within three weeks of normal functioning of the court, failing which the office is directed to place the matter before the Bench.

This is an appeal under Sections 14 (A) (2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989 (hereinafter in short referred to as the 'S.C./S.T. Act'), against the refusal of prayer for bail vide order dated 25.11.2019 passed by the learned 1st Additional Sessions Judge Special Judge cum Special Judge SC/ST, Gaya, in connection Fatehpur P.S. Case No. 148/2015 registered for the offences under



Sections 341, 323, 354, 504/34 of the Indian Penal Code and Sections 3 (I)(X) (XI) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Prosecution case in brief is that on written complaint of the informant, the aforesaid case was lodged against the appellant alleging therein that the appellant alongwith other co-accused persons came to the house of the informant and demanded a glass of water from the daughter-in-law namely Malo Devi and when she came out to give a glass of water to them then appellant caught the hand of the daughter-in-law of the informant when she objected the accused persons started abusing the informant and assaulted with slaps and fist due to which blood started oozing out from her left eye.

Learned counsel for the appellant submits that the appellant has no concern with the aforesaid occurrence. The appellant has falsely been implicated in this case due to dirty village politics. It is evident from the FIR that there is no allegation which attracts Sections 3 (1) (xi) of the SC/ST Act. The appellant has got no criminal antecedent. The appellant had no knowledge about the institution of this false case, he came to know about the same only when the order was served to him from the court of Special Judge SC/ST, Gaya to appear before



him on 25.04.2019.

Learned Special P.P. for the State opposes the prayer for bail and submits that occurrence took place on 2015 and the appellant has filed present case in 2020.

In the aforesaid facts and circumstances of the case, as per FIR, occurrence took place in the house not in a public place, the above named appellant, in the event or his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge SC/ST Act, Gaya in connection with Fatehpur P.S. Case No. 148/2015, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

However, the court below is to see whether the injury of the victim is grievous or not if the injury is grievous then the appellant is not released on anticipatory bail.

(Anjani Kumar Sharan, J)

amitkumar/-

U		T	
---	--	---	--

