

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1480 of 2020**

Arising Out of PS. Case No.-23 Year-2018 Thana- RAJAON District- Banka

LAB KUSH YADAV Son of Police Yadav Resident of Village- Balthara, P.S.-
Rajoun, District- Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Mukherjee, Adv/
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

2 24-09-2020 Heard Mr. Ajay Mukherjee, learned counsel for the appellants and Mr. Binay Krishna learned Special Public Prosecutor appearing for the State through video conferencing.

This appeal has been preferred on behalf of the appellants for setting aside the order dated 27.9.2019 passed by the learned Additional Sessions Judge-I, Banka, whereby the prayer for anticipatory bail of the appellants in connection with A.B.P. No. 1381 of 2019 arising out of Rajoun P.S. Case No. 23 of 2018, registered for the offences punishable under Sections 341, 323, 379, 504, 506/34 of the Indian Penal Code, but charge sheet has been submitted under Sections 341, 323, 504, 506/34 of the Indian Penal Code, Sections 3(i)(x) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and cognizance has been taken against the appellant under Sections



341, 323, 504, 506/34 of the Indian Penal Code and Section 3(1) (r) of SC/ST Act, has been rejected.

The allegation against the appellant as per the First Information Report is that on 17.1.2018 when the informant was going to *Balbara* and reached *Karmathan*, he was intercepted by the appellant along with other accused persons. It is further alleged that the appellant along with other accused persons snatched golden ring and Rs.10,000/- cash from the pocket of the informant and assaulted him.

Learned counsel for the appellant submits that the appellant has falsely been implicated in this case due to previous enmity and dirty village politics. Learned counsel further submits that from perusal of the First Information Report, it would be evident that the offence under Section 379 of the Indian Penal Code is not applicable inasmuch as there is no allegation that the informant was humiliated by the appellant taking his caste name in a public view. Learned counsel also submits that charge sheet has been submitted by the Police under Sections 341, 323, 504, 506/34 of the Indian Penal Code and Sections 3(1)(x) of SC/ST Act against the appellant and cognizance has not been taken under Section 379 of the Indian Penal Code.



Having regard to the submissions made by the parties and taking into consideration the materials on record, this appeal is allowed and the impugned order dated 27.9.2019 passed by the learned Additional Sessions Judge-I, Banka, in connection with A.B.P. No. 1381 of 2019 arising out of Rajoun P.S. Case No. 23 of 2018, is hereby set aside.

Accordingly, in the event of arrest or surrender before the court below within six weeks from today by the appellant, above named, he shall be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Banka, in connection with A.B.P. No. 1381 of 2019 arising out of Rajoun P.S. Case No. 23 of 2018, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that at the time of furnishing bails bonds all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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