

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1578 of 2020**

Arising Out of PS. Case No.-31 Year-2019 Thana- SC/ST District- Gaya

NEYAZ KHAN @ NEYAZ AHMAD KHAN Son of Late Nesar Ahmad Khan
Resident of Village - Khandail, P.S.- Sherghati, District - Gaya.

... .. Appellant

Versus

1. THE STATE OF BIHAR Bihar
2. Gariban Ravidas Son of Rameshwar Ravidas Resident of Village -
Maulvichak, P.S.- Sherghati, District - Gaya.

... .. Respondents

Appearance :

For the Appellant/s : Mr.Shivendra Prasad, Advocate
For the Respondent/s : Ms. Usha Kumari, Spl PP.

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 07-10-2020 As of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through Video Conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual court proceedings from their homes, all with the aid of audio visual technology.

Heard learned Counsel for the parties.

The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the refusal of prayer for regular bail vide order dated 2.8.2019 passed by Exclusive Special Judge, SC/ST Gaya in SC/ST PS Case No. 31 of 2019 registered



under Sections 323, 341, 420, 504 of the IPC and Section 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case alleges that certain lands were purchased from one Jaibun Nissa through a registered sale deed. Possession of the entire area has not been handed over and it is also alleged that neither possession of the entire land has been given nor the amount for such land of which possession has not been given been returned to the complainant. Further allegation is that on demands being made, the appellant abused by caste name and has also assaulted the complainant.

Learned Counsel for the appellant submits that the implication is blatantly false. The transaction took place in 2002 and the registry of the land was done by the step grand mother of the appellant and the appellant was only a witness of the said transaction. In respect of such civil claims of land on the basis of registered document the prosecution has been launched in 2018 which is an abuse of the process of the criminal court. There is no injury report enclosed with the complaint petition. Falsity of the implication is writ large from the fact that the offence under the SC/St Act in the aforesaid facts and circumstances would not be made out against the appellant.

Learned Special PP has opposed the prayer by submitting that anticipatory bail is barred under Section 18 of the Act.

Considering the rival submission, for the limited purpose



of grant of anticipatory bail, this Court is inclined to accept the submissions on behalf of the appellant's counsel.

This appeal is allowed. The impugned order dated 2.8.2019 passed by Exclusive Special Judge, SC/ST Gaya in SC/ST PS Case No. 31 of 2019 is set aside.

Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge, SC/ST, Gaya in SC/ST PS Case No. 31 of 2019, subject to the following conditions:-

(I) That one of the bailors will be a close relative of the appellant, who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant;

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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